STATE OF NEW MEXICO

STATEWIDE WATER QUALITY MANAGEMENT PLAN

NEW MEXICO
WATER QUALITY CONTROL COMMISSION

P.O. Box 26110
Santa Fe, New Mexico 87502

Adopted December 17, 2002
Amended May 13, 2003

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List of Acronyms and Abbreviations in this Plan

BPJ	Best Professional Judgment
BMP	Best Management Practice
CFR	Code of Federal Regulations
CPP	New Mexico Continuing Planning Process
CWA	Federal Clean Water Act (33 U.S.C. 1251 *et seq.*)
CWNS	Clean Water Needs Survey
CWSRF	New Mexico's Clean Water State Revolving Fund
DMA	Designated Management Agency
LA	Load Allocation
MOS	Margin of Safety
MOU	Memorandum of Understanding
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMOCD	New Mexico Oil Conservation Division
NMSA	New Mexico Statutes Annotated
NMWQA	New Mexico Water Quality Act (Chapter 74, Article 6 NMSA)
NPDES	National Pollutant Discharge Elimination System
NPS	Nonpoint Source(s) of Pollution
NPSMP	Nonpoint Source Management Program
POTWs	Publicly Owned Treatment Works
QAPP	Quality Assurance Project Plan
SRF	New Mexico's Clean Water State Revolving Fund
SWQB	Surface Water Quality Bureau of the NMED
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency
WLA	Waste Load Allocation
WQBEL	Water Quality Based Effluent Limit
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WQS	Water Quality Standard(s)
WRAS	Watershed Restoration Action Strategy

List of Documents Included in this Plan by Reference

New Mexico Water Quality Standards for Interstate and Intrastate Surface Waters [20.6.4 NMAC]

All TMDL documents individually listed in Work Element 1 of the Water Quality Management Plan

Clean Water Needs Survey

Memorandum of Understanding Between the U.S. Environmental Protection Agency Region 6 and the New Mexico Environment Department

New Mexico Continuing Planning Process

New Mexico Ground and Surface Water Protection Regulations [20.6.2 NMAC]

New Mexico Nonpoint Source Management Plan

Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects

Quality Assurance Project Plan for Water Quality Management Programs

Preface

The 2002 comprehensive update to the New Mexico Water Quality Management Plan (WQMP) represented an effort to modernize the WQMP. There are substantial changes in format to this document, many of which are intended to take advantage of technologies commonly available today that were non-existent or unavailable the last time the WQMP was comprehensively updated in 1981. These technologies primarily include widespread use of personal computers and rapid access to the Internet by ever-growing numbers of people. This document has been developed with capacity to be used as an electronic document that can be used via the Internet, stand-alone computer compact disc technology, or as a traditional paper document. Electronic users will find unprecedented access to reference documents and supplemental information through the use of hyperlinks embedded throughout the document. These hyperlinks (indicated by blue underlined text) have the capability to take the reader directly and immediately to referenced or supplemental information. For example, if there is a reference to a document such as the New Mexico Nonpoint Source Management Plan (a stand alone document that in itself is more than 150 pages) a hyperlink is provided that allows the reader to access a copy of the entire document. To avoid problems, all reference documents have been converted to a common and readily available electronic format. The common format is Adobe® Acrobat®. The Adobe® Acrobat® Reader® is widely used and available for free by contacting Adobe® at the following website: http://www.adobe.com/products/acrobat/readstep.html. For readers of this document who choose to use it more traditionally (i.e., as a paper document), citations of references are provided and or quoted to a large enough extent that the document remains useful. Regardless, copies of this document and the incorporated documents are available often through statewide repository libraries or by contacting the New Mexico Environment Department (www.nmenv.state.nm.us/) Surface Water Quality Bureau (www.nmenv.state.nm.us/swqb/swqb.html) in Santa Fe [(505) 827-0187].

The 2002 New Mexico WQMP update project was carried out with a number of goals in mind. Many of the "work elements" adopted by the New Mexico Water Quality Control Commission over the many years had remained "on-the-books" even though they were completed or had become outdated or obsolete. In some respects the WQMP had become like an old fruit tree in need of pruning in order to restore its health and allow future growth. Indeed some work elements that remained "on-the-book" were adopted in the late 1970's. Many Clean Water Act programs have matured dramatically since the 1970's and 1980's. Some current programs or strategies did not exist in the late 1970s and early 1980s when many WQMP Work Element Strategies were first contemplated. One landmark event instituting change is the 1987 amendments to the Clean Water Act (P.L. 100-4). Prior to the 1987 amendments, Congress supported a construction grant program to assist local governments with funding wastewater treatment infrastructure improvements. After the 1987 amendment the grant program was transitioned to a revolving loan program. An example of a new program is the Nonpoint Source Management program that did not exist prior to adoption of §319 of the CWA in 1987. Many of the "old" pre-1987 WQMP strategies were directed at investigating and solving nonpoint source pollution problems. Since the enactment of §319, many of the nonpoint source management concerns have been rolled into a more efficient and better defined program.

The goals of the 2002 comprehensive update were to:

1. make what had become an obscure document more readily accessible and useable;
2. "prune" out old work elements and strategies that were either no longer required, completed, or simply outdated;
3. reorganize the document to track current federal requirements as found in the Code of Federal Regulations;
4. provide consolidation of the many partial updates (e.g., adoption of numerous Total Maximum Daily Load documents) that have occurred in recent years but have not been compiled in one accessible document;
5. provide a format that supports opportunity for future growth of the WQMP

The 2002 update was not intended to explore and incorporate all feasible new planning initiatives. Rather, the intent was to "prune" the document back to a "healthy" base upon which the future can grow.

Based on this new organization, updates made after 2002 will be noted by a change in the "Revised Date" section located underneath the title of each work element. Summary statements will also be provided as needed to the Preface to explain the update.

The 2002 version of the WQMP was approved by the WQCC on December 17, 2002. The December 17, 2002 version was then submitted to USEPA for approval in accordance with 40 CFR 130 requirements. USEPA approved the WQMP by letter dated April 16, 2003.

May 2003 Update – Upon approval of the December 17, 2002 update to the WQMP, the Water Quality Control Commission directed the Surface Water Quality Bureau to revise and update the Introduction and Work Element 11 – Public Participation Program based on public comment received during the hearings associated with the December 2002 update. The purpose of the update was to expand the Introduction to provide the reader with additional background information on how water quality is managed in the state of New Mexico and to completely revise Work Element 11 to incorporate current protocols and strategies.

Introduction

(Revised: May 13, 2003)

Purpose

The Statewide Water Quality Management Plan (WQMP) has two primary purposes. First, it is intended to provide a concise summary of the water quality management system in New Mexico (NM), and the roles of the major participants in that system. Second, it is fulfills the requirements of section 208 (area wide waste treatment management plans) and section 303 (Continuing Planning Process) of the federal Clean Water Act and section 74-6-4.B of the NM Water Quality Act, that the State maintain a comprehensive water quality management program.

It is important to point out that the WQMP is one of many tools required by the Clean Water Act and the NM Water Quality Act in a programmatic approach to water quality protection. The WQMP is intended to work in conjunction with other important documents such as the *Continuing Planning Process (CPP)*, the *NM Standards for Interstate and Intrastate Surface Waters* as well as applicable laws and regulations.

The State of New Mexico is responsible for managing its water quality program to implement the following processes specified in the CPP:

(1) The process for developing effluent limitation and schedules for compliance at least as stringent as those required by Sections 303(b)(1), 303(b)(2), 306, and 307 of the federal Clean Water Act and at least as stringent as any requirements contained in applicable water quality standards adopted pursuant to Section 303 of the Act;
(2) The process for incorporating elements of any applicable areawide water quality management plans prepared pursuant to Section 208 of the Act, and applicable basin plans under Section 209 of the Act;
(3) The process for developing total maximum daily loads (TMDLs) and individual based water quality based effluent limitations for pollutants in accordance with Section 303(d) of the Act and 40 CFR 130.7(a);
(4) The process for updating and maintaining the statewide Water Quality Management Plan (WQMP), including schedules for revision;
(5) The process for assuring adequate authority for intergovernmental cooperation in the implementation of the statewide water quality management program;
(6) The process for establishing and assuring adequate implementation of new or revised water quality standards under Section 303(c) of the Act;
(7) The process for assuring adequate controls over the disposition of residual waste from water treatment processing;
(8) The process for developing the inventory and ranking in order of priority of needs for construction of waste treatment facilities to meet applicable requirements of Section 301 and 302 of the Act; and
(9) The process for determining the priority of permit issuance.

Historical Perspective

The Federal Water Pollution Control Act (now commonly referred to as the Clean Water Act) was originally adopted in 1948. Amendments to this Act in 1965 for the first time required states to adopt water quality criteria for interstate waters and a plan for implementation and enforcement of the criteria. The NM Water Quality Act was adopted in 1967 by the NM legislature, which created the Water Quality Control Commission (WQCC) and established the authority to adopt water quality standards including water quality criteria consistent with the federal Clean Water Act. In 1972, Congress adopted a major overhaul of the Federal Water Pollution Control Act. The 1972 Act:

(1) Established the National Pollutant Discharge Elimination System (NPDES) permit program to regulate point source discharges of pollutants, by requiring that dischargers meet both water quality-based and technology-based effluent limitations;

(2) Authorized the Environmental Protection Agency (EPA) to establish technology-based effluent limitations for certain categories of dischargers;
(3) Required states to develop a comprehensive and Continuing Planning Process for water quality management (section 303), including the adoption of "area wide waste treatment management plans" (section 208 plans);
(4) Authorized EPA to establish water quality standards where any state fails to adopt standards that meet the requirements of the Federal Act; and
(5) Substantially expanded a program to provide federal grants for the construction of domestic wastewater treatment plants.

The next major changes to the federal Clean Water Act were adopted in 1987. These changes included provisions that:
(1) Established new requirements regarding the permitting of storm water discharges;
(2) Required that states develop management programs to address nonpoint source water pollution (section 319); and
(3) Phased out the previous federal construction grant program, while authorizing initial federal funding for state revolving loan funds to address water quality management infrastructure needs.

The NM Legislature has periodically amended the NM Water Quality Act to maintain compliance with federal law, following a similar timeline as that outlined above, as well as address water quality issues of unique importance to NM.

Background

New Mexico's approach to water quality planning and management has evolved substantially over the last three decades, largely in response to the changing federal and state statutory mandates. Although the State currently conducts water quality planning on a statewide level, these efforts are evolving toward more of a watershed level focus in the context of the statewide planning efforts. (For the purposes of this document the term "watershed" is intended as a flexible concept, referring to an identified geographic area affecting a water body or water segment.) That is, planning and management are moving toward a holistic strategy to protect or attain the desired beneficial uses and levels of water quality within a watershed, including, where appropriate, protection of human health and aquatic ecosystems. A successful watershed protection approach must be founded on cooperative interaction between the federal, state, and local levels of government, and between the public and private sectors.

(1) Institutional Roles and Responsibilities

Understanding who the major participants are in the water quality management system is integral to understanding the process. The following provides a brief summary of the institutional roles and responsibilities of the major participants in water quality management and planning in NM.

A. Water Quality Control Commission (WQCC) – The NM WQCC is the water pollution control agency for NM and is responsible for developing specific water quality policy in

NM, in a manner that implements the broader policies set forth by the Legislature in the NM Water Quality Act.

The WQCC adopts water quality classifications and standards to protect beneficial uses of waters of the State, as well as various regulations aimed at achieving compliance with those classifications and standards. In addition to its formal rulemaking role, the WQCC serves as a forum to facilitate and advance a statewide policy dialogue on a variety of important water quality topics. The WQCC also serves a role in quasi-judicial administrative hearings concerning appeals of certain decisions of constituent agencies, such as permitting actions, adoption of regulations, etc. Additional duties and powers of the WQCC are defined in 74-6-4 NMSA 1978.

The twelve members of the WQCC include:

a. Secretary of the Environment Department*
b. Director of the Department of Game and Fish*
c. State Engineer*
d. Chairman of the Oil and Conservation Commission*
e. Director of the State Park and Recreation Division of the Energy, Minerals and Natural Resources Department*
f. Director of the NM Department of Agriculture*
g. Chairman of the Soil and Water Conservation Commission or a Soil and Water Conservation District Supervisor designated by him/her
h. Director of the Bureau of Mines and Minerals Resources at the NM Institute of Mining and Technology*
i. Representative of County or Municipal Government
j. Three representatives of the public to be appointed by the governor for terms of four years

(*indicates that a Commissioner can appoint a staff member to serve on the Commission in his/her place.)

Additional information can be found on the WQCC's website at: http://www.nmenv.state.nm.us/oots/wqcc.htm.

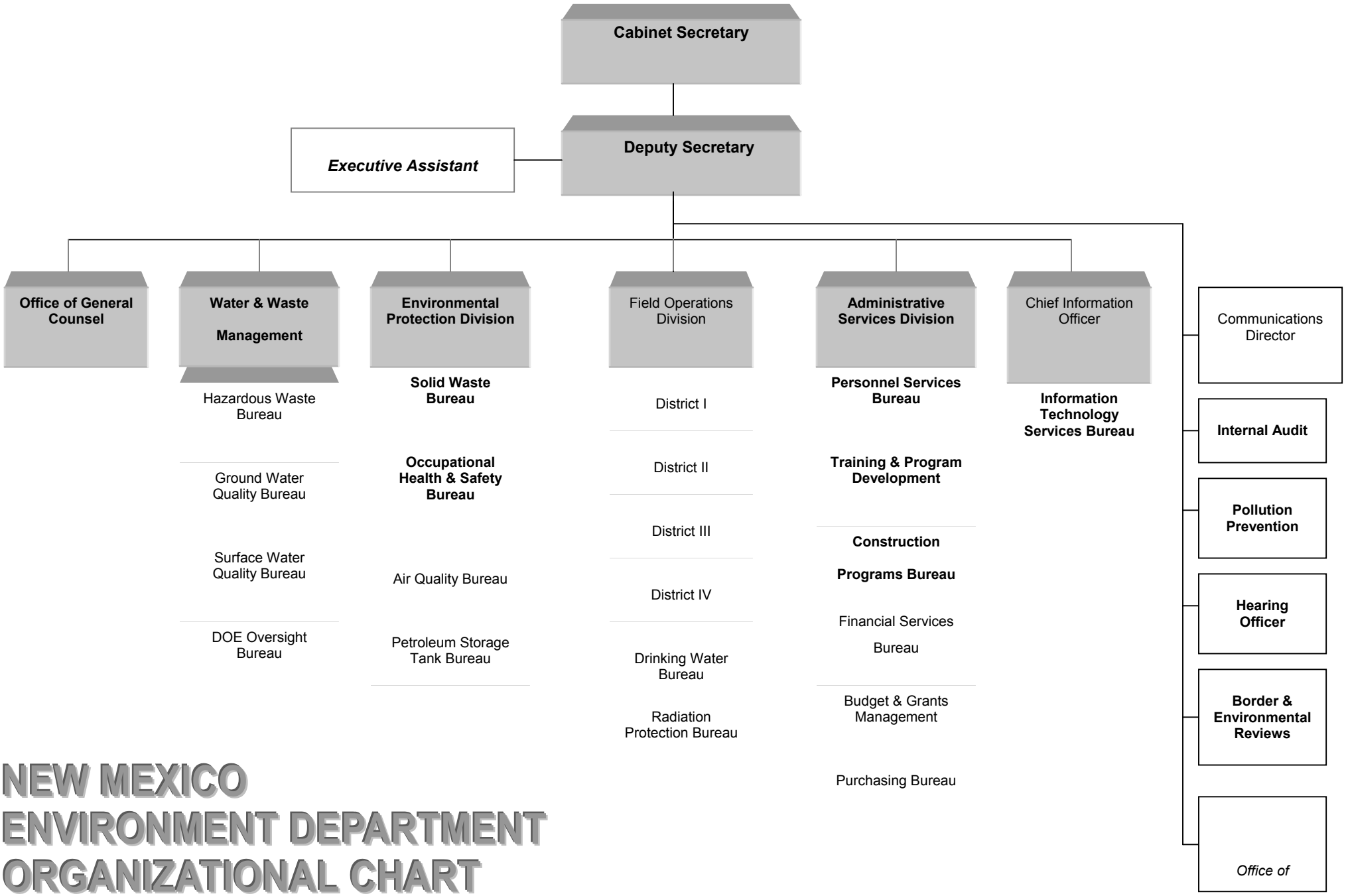
B. New Mexico Environment Department (NMED) - The NMED (http://www.nmenv.state.nm.us/) is the agency responsible for implementing and enforcing the regulations adopted by the WQCC. Moreover, the NMED provides the principal source of technical expertise available to the WQCC in its rulemaking and other policy-setting activities. By statute the NMED is authorized to act as staff to the WQCC in proceedings other than ad judicatory or appellate proceedings in which the NMED is a party.

The WQCC has assigned the NMED as the constituent agency to assist in developing water quality classifications and standards, regulating discharges for compliance with those standards through discharge permits issued, performing site application and design and specification reviews of new or expanding domestic wastewater treatment facilities,

and undertaking monitoring and enforcement of the statutes and permits. The NMED also oversees water quality management planning, manages state and federal construction grant and loan assistance programs which provide financial support to municipalities for construction or improvement of wastewater treatment facilities, manages the ground water quality protection program with the goal of protecting the public health and beneficial ground water uses, and provides technical assistance to local governments regarding water and wastewater treatment.

The NMED has the responsibility of maintaining, restoring and improving the quality of the State's waters and assuring that safe drinking water is provided from public water systems to the people of the State.

Within the NMED there are primarily three Divisions (see NMED Organization Chart, noting that descriptions below are provided only for Divisions that handle water quality) that handle water quality related issues: the Water and Waste Management Division, the Field Operations Division, and the Administrative Services Division. Divisions are further divided into Bureau's focusing on specific topics. The following provides a description of Departmental responsibilities relating to water quality. For a complete description of the NMED, including programs not related to water, go to the Department's website at: http://www.nmenv.state.nm.us/.



NEW MEXICO ENVIRONMENT DEPARTMENT ORGANIZATIONAL CHART

- Water and Waste Management Division

  Department of Energy (DOE) Oversight Bureau: The mission of the DOE Oversight Bureau is to assure that activities at DOE facilities are protective of the public health and safety and the environment. The oversight bureau is tasked with: assessing whether activities at DOE facilities in NM are protective of the public health and environment; providing input into the prioritization of cleanup and compliance activities at DOE facilities; developing and implementing a vigorous program of independent monitoring and oversight, including water quality monitoring; increasing public knowledge of environmental matters about the facilities; and coordinating with local and tribal governments.

  Ground Water Quality Bureau (GWQB): The role of the GWQB is to protect the environmental quality of NM's ground water resources as mandated by the NM Water Quality Act and the WQCC regulations (20.6.2 NMAC), and to identify, investigate and clean-up contaminated sites that pose significant risks to human health and the environment. The GWQB issues ground water pollution prevention permits; implements the Department's responsibilities under the NM Mining Act to ensure that environmental issues are addressed and standards are met; oversees ground water investigation and remediation activities; and identifies, investigates and remediates inactive hazardous waste sites through: implementation of the federal Superfund program, agreements between the State and responsible parties, and the voluntary remediation regulations. The GWQB also strives to increase industry and public understanding and awareness of the importance of safe ground water supplies in sustaining the quality of life in NM for this and future generations, and the importance of protecting ground water quality through pollution prevention initiatives.

  Hazardous Waste Bureau (HWB): The HWB's mission is to provide regulatory oversight and technical guidance to NM's hazardous waste generators and treatment, storage, and disposal facilities. New Mexicans will then be assured that hazardous waste is managed, and contaminated sites are cleaned up, in a manner that is safe and protective of human health and the environment. The HWB also ensures abandoned hazardous substances are handled on an emergency basis and lessens the resulting hazards that may present endangerment to humans. The HWB protects water quality by serving as the central receiving point for all calls regarding chemical, biohazardous, and petroleum product spills, complaints, and incidents within close proximity to or within a waterbody.

  Surface Water Quality Bureau (SWQB): The SWQB protects and improves water quality in NM's waters by controlling pollution from both discrete point sources and dispersed nonpoint sources. Operating under the federal Clean Water Act and Safe Drinking Water Act, and the NM Water Quality Act and Utility Operators Certification Act, the SWQB administers watershed restoration grants (Clean Water Act 319 Grant Program), certifies federal National Pollution Discharge Elimination System (NPDES) permits and dredge and fill permits, and provides utility operator training and certification. The SWQB also assists the NM WQCC in developing

water quality standards for the State, based on data collected from stream surveys and monitoring conducted by the SWQB. Using the standards, the SWQB develops water quality planning documents identifying pollutant load reductions necessary to attain standards in a reach (Total Maximum Daily Loads) and other documents to better protect NM's surface water quality for future and present generations. Additionally, the SWQB is the constituent agency assigned by the WQCC the responsibility of maintaining and revising the WQMP and the CPP, and is the primary implementer of the programs defined in those documents.

- Environmental Protection Division

  Petroleum Storage Tank Bureau (PSTB): The PSTB works to reduce, mitigate and eliminate the threats to the environment posed by petroleum products or hazardous material or wastes released from underground and above ground storage tanks.

  Solid Waste Bureau (SWB): The SWB assures that solid waste is managed in such a way as to minimize impact on the environment and public health.

- Field Operations Division (FOD)

  The FOD administers and coordinates the following programs:
  Liquid Waste, Food Service and Processors, Public Swimming Pool and Public Bath Safety and Sanitation, and Drinking Water programs. The FOD assists counties in the planning and review process for subdivision development. In this capacity, staff provides input in the areas of water quality and the disposal of liquid and solid waste. The FOD also protects water quality by regulating individual septic tank systems and other small domestic wastewater systems, under the authority of the Environmental Improvement Board, to prevent potential contamination to surrounding waterbodies.

  Drinking Water Bureau (DWB): The DWB is responsible for carrying out mandates of the Safe Drinking Water Act and implementing the federally funded Public Water Supply Supervision Program (PWSS). The DWB protects drinking water quality by providing technical assistance, system oversight, and source water protection to New Mexico's public water systems, under the authority of the Environmental Improvement Board.

- Administrative Services Division (ASD)

  Construction Programs Bureau (CPB): The CPB handles water, wastewater, and solid waste construction funding by administering the following programs: NM Clean Water State Revolving Fund (CWSRF), Rural Infrastructure Revolving Loan Program (RIP), NM Solid Waste Facility Grant Fund Program (SWFGFP), NM Special Appropriations Program (SAP), NM Colonias Construction Grants Program, and South Valley Wastewater Facility Construction Program. The CPB makes publicly funded loan and grant program funds available to NM local governments; manages the timely construction and administrative completion of publicly funded

water, wastewater, and solid waste projects; and ensures that projects are environmentally sound, of high quality, and that their construction management is free of waste, fraud, and abuse.

C. Other State Implementing Agencies - Several other state agencies conduct activities that impact water quality and should be considered in the implementation of the WQMP. These include, but are not limited to: the State Engineer's Office; Interstate Stream Commission; Department of Game and Fish; State Parks and Recreation Division, Oil Conservation Division and Mining and Minerals Division, all three of the NM Energy, Minerals, and Natural Resource Department; Oil Conservation Commission; Soil and Water Conservation Districts (SWCDs); NM Department of Agriculture.

D. Regional/Areawide Planning Agencies - Section 208 of the federal Clean Water Act provides that the Governor of a State must identify areas of the State which, as a result of urban or industrial concentration or other significant factors, have substantial water quality problems. The Governor may designate regional planning agencies for these areas, after consultation with local governmental officials having jurisdiction over the area, to conduct the planning required by section 208. Designated Management Agencies (DMAs) must demonstrate legal, institutional, managerial, and financial capability, and specific activities necessary to carry out their responsibilities. As specified at 40 CFR 130.12(b), Clean Water Act Section 201 funding can only be awarded to DMAs that are in conformance with the statewide WQMP. Accordingly, 84 municipalities, 2 counties, 11 sanitation or water and sanitation districts, 4 state agencies, and 2 Native American tribal entities have been designated wastewater management agencies in the WQMP. One of the two Native American Tribal entities, the Navajo Tribal Utility Authority, has been designated as an interim wastewater management agency. DMAs are further addressed in Work Element 5 of the WQMP.

E. Watershed-based Water Quality Authorities/Associations/Forums - Over the last several years, increasing interest in a watershed-based approach to water quality management has led to the development of a number of local and regional initiatives in New Mexico. These initiatives reflect a great diversity of organizational models and functional roles. The various initiatives focus on a number of different priorities such as: implementation of site-specific control regulations adopted by the WQCC, information sharing (outreach and education), or implementation of remediation and restoration projects.

F. The number and nature of these local and regional watershed initiatives in New Mexico is evolving rapidly. No effort is made in this WQMP to comprehensively catalogue or describe such initiatives. Whatever the primary focus, organizational structure, scope and level of formality of these local and regional initiatives, they are expected to play an increasingly important role in water quality management in New Mexico. Environmental Protection Agency (EPA) - The federal EPA has several roles with respect to NM's water quality control programs. The federal Clean Water Act requires EPA to review state water quality classifications and standards and either approve them as being compliant with the federal act, or to disapprove and promulgate classifications and standards for NM. Total Maximum Daily Loads developed by the State are reviewed and approved by EPA. EPA issues NPDES discharge permits in NM which are certified by the NMED

SWQB. EPA is responsible for approving section 208 plans (regional water quality management plans) submitted by states as well as states' Continuing Planning Processes prepared in accordance with section 303(e) of the federal Clean Water Act. Finally, in addition to adopting regulations establishing water quality program requirements that must be met by states, EPA frequently issues guidance documents or policy statements on a variety of water quality topics.

G. Other Federal Agencies - Several other federal agencies become involved in water quality management in NM in particular circumstances. Federal land management agencies, such as the U.S. Department of Agriculture Forest Service, the Department of Interior Bureau of Land Management, and the National Park Service, consider water quality protection in their management programs. The U.S. Army Corps of Engineers administers the Clean Water Act section 404 permit program, which regulates the discharge of dredged or fill material that may adversely impact waters of the United States, including wetlands. The Bureau of Reclamation has increasingly included environmental protection considerations into its management of federal water projects. The U.S. Department of Agriculture administers an Environmental Quality Incentive Program under the federal Farm Bill. The U.S. Fish and Wildlife Service (USFWS) consults with other federal agencies under section 7 of the Endangered Species Act regarding activities that may adversely impact threatened or endangered species. The USFWS has entered into a Memorandum of Agreement with EPA regarding consultation with respect to water quality program activities. The U.S. Geological Survey (USGS) undertakes a variety of studies regarding water quality, including the National Water Quality Assessment (NAWQA) program.

H. General Public - Public participation is an integral part of water quality management in NM. All regulatory actions of the WQCC and the NMED are required to follow appropriate public comment, notice, and hearing requirements. In addition, with respect to other policy-making and non-rulemaking activities of the WQCC and the NMED, an opportunity for public input is often provided; e.g., through informational hearings or public meetings. Moreover, an important aspect of the increasing trend toward a watershed protection approach is assuring a full opportunity for "stakeholder" input and participation in watershed planning and management activities. Work Element 11 of this plan addresses public participation in greater detail.

(2) Water Quality Monitoring, Assessment, and Reporting

As the statewide WQMP draws upon water quality monitoring and assessment to identify priorities and recommend control measures, it is important to further understand NM's approach to water quality management and planning.

Monitoring

Monitoring of water quality is an important component of the State's water quality management program. Monitoring and data analysis are essential to identifying and characterizing water

quality problems, revising water quality standards, and developing and evaluating the results of control actions. Monitoring information is also essential for calibration of water quality computer models used for pollutant allocation studies. Monitoring can also provide evidence of water pollution in connection with an enforcement action. The goal of the monitoring program is to provide information needed to assess the surface waters and provide information for the State's water quality management activities. The surface water monitoring strategy conducted by the SWQB has many specific program objectives, which can be grouped into the following general categories: river and stream monitoring, including chemical, physical, and biological parameters; lakes and reservoir monitoring; and special studies.

The SWQB's monitoring programs follow standard operating procedures for sample collection, sample processing, field data analysis, and quality assurance/quality control (QA/QC). The SWQB has developed a number of protocols included in the Quality Assurance Project Plan (QAPP) describing the methodologies for collecting various water quality samples. The QAPP is used to ensure that all data used by the NMED is reliable and of a defined level of quality. Mandatory use of the QAPP procedures and associated protocols are key elements in implementing this WQMP.

Assessment

Assessment is the process by which water quality data is transformed into information useful in the development of water quality management documents and decisions. Assessment can be described as the process(es) that leads to the interpretation of data, and the utilization of tools such as computer modeling to simulate various conditions. Water quality information is then used as the basis for water quality management decisions. Assessment activities support nearly all aspects of the water quality management processes described in this document. Assessment of water quality data is essential in determining whether use classifications and water quality standards are being attained, and whether proposals to make changes to such standards and classifications are appropriate. Permit limitations for municipal and industrial dischargers also require an assessment of instream water quality conditions, the quality of discharged wastewater, and the allowable levels of various pollutants in the wastewater that will still allow protection of water quality standards.

Other important water quality management processes which may require assessment include: reviews of actions which require an antidegradation analysis to ensure that antidegradation requirements are met; source water protection plans, designed to reduce pollutants and provide safe drinking water quality; and State certification of federal permits under section 401 of the Clean Water Act to ensure that state water quality standards are met.

Reporting

The federal Clean Water Act has two primary requirements for reporting water quality in a state, the "303(d) List," also known as the "List of Impaired Waterbodies" and the "305(b) Report," also called "Water Quality and Water Pollution Control Report." In addition to these federal reporting requirements, the NMED also compiles numerous different documents reporting water quality information, including a biennial "State of the Environment Report," which includes a

section devoted to water quality. All reports produced by the NMED are available upon request or from the website at www.nmenv.state.nm.us.

- "303(d) List" - Section 303(d) of the federal Clean Water Act requires states to submit to the EPA a list of waterbodies that do not meet applicable water quality standards. Once listed, the state is required to prioritize these water bodies or segments (rivers, streams, lakes, reservoirs) for analysis of the causes of the water quality problem, and for allocation of the responsibility for controlling the pollution. This analysis is called the total maximum daily load (TMDL) process, which is included in Work Element 1 of this WQMP. Waterbodies and segments are included on the section 303(d) list of impaired waters based on an evaluation of biological, chemical or physical data that demonstrates nonattainment of applicable numeric or narrative standards and therefore designated use impairment.

- "305(b) Report" - Section 305(b) of the federal Clean Water Act requires states to prepare and submit a report biennially to EPA on the status of water quality within the state. The report provides an assessment of water quality in a state, a summary of water quality management programs, and an estimate of the environmental, social and economic impacts associated with achieving the objectives of the Clean Water Act. EPA uses the information contained in the section 305(b) report to report to the United States Congress on progress toward, and the associated benefits and costs of, meeting the goals of the Clean Water Act, and program plans and needs in areas such as permits, grants, effluent guidelines, etc., and mechanisms to implement needed changes.

  At the date of this writing EPA has issued guidance recommending that states integrate the 303(d) List and the 305(b) Report. It is likely that this will be accomplished in NM for the next reporting cycle (2004-2006).

- "State of the Environment Report" – The NMED prepares this biennial report to inform the public of the current environmental quality of the State. The Department continuously monitors air, land, and water, and evaluates business practices, identifies environmental trends, and implements new federal and state regulations to identify, develop, and sustain a healthy, productive environment. This report features recent Department activities, provides program descriptions, and describes events and initiatives.

Monitoring, assessment, and reporting are conducted on a continuous basis, periodically rotating throughout the State. As previously mentioned, these activities are the driving force for the development and implementation of the statewide WQMP.

(3) Water Quality Classification and Standards

Overview

New Mexico's* Water Quality Standards for Interstate and Intrastate Surface Waters *(20.6.4 NMAC) establish water quality standards that consist of the designated use or uses of surface waters of the State, the water quality criteria necessary to protect the use or uses, and an antidegradation policy to prevent degradation of waterbodies with water quality currently above standards.

The State of New Mexico is required under the New Mexico Water Quality Act (Subsection C of Section 74-6-4 NMSA 1978) and the federal Clean Water Act, as amended (33 U.S.C. Section 1251 *et seq*.) to adopt water quality standards that protect the public health or welfare, enhance the quality of water, and are consistent with and serve the purposes of the New Mexico Water Quality Act and the federal Clean Water Act. It is the objective of the federal Clean Water Act to restore and maintain the chemical, physical, and biological integrity of the nation's waters, including those in New Mexico. This part is consistent with Section 101(a)(2) of the federal Clean Water Act, which declares that it is the national goal that wherever attainable, an interim goal of water quality that provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983. Agricultural, municipal, domestic and industrial water supply are other essential uses of New Mexico's surface water; however, water contaminants resulting from these activities will not be permitted to lower the quality of surface waters of the State below that required for recreation and protection and propagation of aquatic life and wildlife, where practicable.

It is important to note that the State of NM does not have jurisdiction to adopt water quality standards for land on Indian pueblos and reservations located within New Mexico's borders.

General Criteria

General criteria are established to sustain and protect existing or attainable uses of surface waters of the State. These general criteria apply to all surface waters of the State when water is present, unless site-specific criteria are elsewhere identified. Surface waters of the State shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property.

General standards have been established for:

- Bottom Deposits
- Floating Solids, Oil and Grease
- Color
- Odor and Taste of Fish
- Plant Nutrients
- Toxic Pollutants
- Radioactivity
- Pathogens
- Temperature
- Turbidity
- Salinity

- Dissolved Gases

Site-Specific Classifications (Designated Uses) and Criteria

The system for assigning surface water quality classifications and standards is based on adopting use classifications, or designated uses, that identify those uses to be protected on a stream segment, and then adopting numerical criteria for specific pollutants to protect those uses. Within each river basin, waters are divided into individual stream segments for classification and standard-setting purposes.

A designated use refers to those uses specified in Sections 20.6.4.101 through 20.6.4.899 of the Water Quality Standards for Interstate and Intrastate Surface Waters. These designated uses currently include: marginal coldwater fishery, coldwater fishery, high quality coldwater fishery, warmwater fishery, limited warmwater fishery, primary contact, secondary contact, irrigation, irrigation storage, livestock watering, fish culture, wildlife habitat, and domestic water supply.

Site-specific water quality criteria are intended to protect all existing uses of State waters and any additional uses for which waters are suitable or are intended to become suitable. These criteria can either be narrative or numeric criteria. Narrative criteria are general, non-quantified statements of conditions to be met by State waters. Statewide numeric criteria have specific quantitative limits that must be met in order to comply with state water quality standards.

Review of Water Quality Standards

Section 303(c)(1) of the federal Clean Water Act requires that the State hold public hearings at least once every three years for the purpose of reviewing water quality standards and proposing, as appropriate, necessary revisions to water quality standards.

It is recognized that, in some cases, numeric criteria have been adopted that reflect use designations rather than existing conditions of surface waters of the State. Narrative criteria are required for many constituents because accurate data on background levels are lacking. More intensive water quality monitoring may identify surface waters of the State where existing quality is considerably better than the established criteria. When justified by sufficient data and information, the water quality criteria will be modified to protect the attainable uses. It is also recognized that contributions of water contaminants by diffuse nonpoint sources of water pollution may make attainment of certain criteria difficult. Revision of these criteria may be necessary as new information is obtained on nonpoint sources and other problems unique to semi-arid regions.

(4) Antidegradation Provisions

Antidegradation provisions of the *Water Quality Standards for Interstate and Intrastate Surface Waters* apply to all surface waters of the State.

Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected in all surface waters of the State. Where the quality of a

surface water of the State does not meet an applicable criterion or meets but is not more protective than an applicable criterion no degradation shall be allowed with respect to that criterion. Where a surface water of the State exceeds levels necessary to support the propagation of fish, shellfish, and wildlife, and recreation in and on the water, that quality shall be maintained and protected unless the Commission finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's Continuing Planning Process that allowing lower water quality is necessary to accommodate important economic and social development in the area in which the water is located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable Best Management Practices (BMPs) for nonpoint source control. Additionally, the State shall encourage the use of watershed planning as a further means to protect surface waters of the State.

Where a surface water of the State has been designated by the Commission as an outstanding national resource water (ONRW), no degradation shall be allowed. ONRWs may include, but are not limited to, surface waters of the State within national and State monuments, parks, wildlife refuges, waters of exceptional recreational or ecological significance, and waters identified under the Wild and Scenic Rivers Act. Any person may nominate a surface water of the State for designation as an ONRW by filing a petition with the Commission pursuant to the *Guidelines for Water Quality Control Commission Regulation Hearings*, which are available on the WQCC's website at: http://www.nmenv.state.nm.us/oots/wqcc.htm.

(5) Implemention

The Department, acting under authority delegated by the Commission, implements the water quality standards, including the antidegradation policy, by describing specific methods and procedures in the Continuing Planning Process and by establishing and maintaining controls on the discharge of pollutants to surface waters of the State.

The steps summarized in the following paragraphs, which might not all be applicable in every water pollution control action, list the implementation activities of the Department. These implementation activities are supplemented by detailed antidegradation review procedures developed under the State's Continuing Planning Process. The Department:

- obtains information pertinent to the impact of the effluent on the receiving water and advises the prospective discharger of requirements for obtaining a permit to discharge;
- reviews the adequacy of the existing data base, and if additional information is needed, conducts a water quality survey of the receiving water in accordance with an annually reviewed, ranked priority list of surface waters of the State requiring total maximum daily loads pursuant to Section 303(d) of the federal Clean Water Act;
- assesses the probable impact of the effluent on the receiving water relative to its attainable or designated uses and numeric and narrative standards;
- requires the highest and best degree of wastewater treatment practicable and commensurate with protecting and maintaining the designated uses and existing water quality of surface waters of the State;

- develops water quality based effluent limitations and comments on technology based effluent limitations, as appropriate, for inclusion in any federal permit issued to a discharger pursuant to Section 402 of the federal Clean Water Act;
- requires that these effluent limitations be included in any such permit as a condition for State certification pursuant to Section 401 of the federal Clean Water Act;
- coordinates its water pollution control activities with other constituent agencies of the Commission, and with local, State and federal agencies, as appropriate;
- develops and pursues inspection and enforcement programs to ensure that dischargers comply with state regulations and standards, and complements EPA's enforcement of federal permits;
- ensures that the provisions for public participation required by the New Mexico Water Quality Act and the federal Clean Water Act are followed;
- provides continuing technical training for wastewater treatment facility operators through the utility operators training and certification programs;
- provides funds to assist the construction of publicly owned wastewater treatment facilities through the wastewater construction program authorized by Section 601 of the federal Clean Water Act, and through funds appropriated by the New Mexico legislature;
- conducts water quality surveillance of the surface waters of the State to assess the effectiveness of water pollution controls, determines whether water quality standards are being attained, and proposes amendments to improve water quality standards;
- encourages, in conjunction with other State agencies, voluntary implementation of the best management practices referenced in the New Mexico statewide WQMP and the nonpoint source management program;
- evaluates the effectiveness of BMPs selected to prevent, reduce or abate sources of water pollutants;
- develops procedures for assessing use attainment as required by 20.6.4.14 NMAC and establishing site-specific standards; and
- develops list of surface waters of the State not attaining designated uses, pursuant to Sections 305(b) and 303(d) of the federal Clean Water Act.

Summary

The statewide WQMP provides a consistent approach for maintaining, improving, and protecting water quality. Establishing such a plan ensures that the quality of water in the environment is periodically assessed, water quality standards are established to protect designated uses; and sources of pollution that may adversely impact water quality are controlled.

In order to maintain the usefulness of this document into the future, documents that relate to components of the WQMP, including those required by 40 CFR 130.6(c), have been incorporated by reference. Documents incorporated by reference may later be revised, after public notice and participation appropriate to each document and approval by the WQCC. Such revised documents are incorporated herein by reference. Documents requiring approval by the EPA are considered incorporated after EPA approval of the revised document. Accordingly, as referenced documents (e.g., Nonpoint Source Management Program, Continuing Planning

Process) are updated, the WQMP is effectively updated. This approach is in keeping with current EPA regulations found at 40 CFR 130.6(c).

Work Element 1 – Total Maximum Daily Loads (TMDLs)
(Revised: December 17, 2002)

Requirements for Work Element 1

Regulation 40 CFR 130.6(c)(1) requires: *TMDLs in accordance with sections 303(d) and (e)(3)(C) of the Act and Sec. 130.7 of this part*.

Background

TMDLs are a required component of the WQMP. However, according to federal regulations (40 CFR 130.6(c)), a plan element may be "referenced as part of the WQM plan if contained in separate documents." The process for development of TMDLs and individual water quality-based effluent limitations is contained in *State of New Mexico Continuing Planning Process, July 1998*. As TMDLs are developed and approved, they are incorporated into the water quality management plan and used as the basis for implementation of water pollution control activities.

A Total Maximum Daily Load (TMDL) can best be described as a budget for pollutant influx to a watercourse. A TMDL, in actuality, is a planning document. The "allowable budget" is determined based on the amount of pollutants that can be assimilated without causing the stream to exceed water quality standards set to protect the stream's designated uses (e.g., fishery, irrigation, etc.). The current pollutant loading is then determined by scientific study of a stream to assess the excess loading above the allowable budget. Because TMDLs are only written for impaired waterbodies, the current loading is known to be in excess of the allowable budget, or total maximum daily load. Subtracting the TMDL from the current excess load provides a calculation of the amount of load reduction necessary to bring the waterbody into compliance with state standards. Once this capacity is determined, sources of pollutants are considered and an implementation plan is described.

Both point and nonpoint pollutant sources must be included. Once all sources are accounted for, pollutants are then allocated or budgeted among sources in a manner that describes the amount (the total maximum load) that can be assimilated into the river without causing the stream standard or "budget" to be exceeded. Nonpoint sources are grouped into a "load allocation" (LA) and point sources are grouped into a "wasteload allocation" (WLA). By federal regulation, the budget must also include a "margin of safety" (MOS). TMDLs can also be described by the following equation:

$$TMDL = LA + WLA + MOS$$

Implementation of TMDLs is described in the "Process for Establishing and Assuring Implementation of Water Quality Standards" section of the *State of New Mexico Continuing Planning Process, July 1998*. In summary, WLA allocations are implemented through the National Pollutant Discharge Elimination System (NPDES) permit program for point source

discharges and the LA is implemented through the voluntary NM Nonpoint Source Management Program.

In 1996 two groups, Forest Guardians and Southwest Environmental Center, jointly filed a lawsuit against the USEPA alleging that adequate TMDLs had not been developed by the State as required under § 303 of the CWA. The State of New Mexico was not a litigant in this suit. In 1997 USEPA and plaintiffs negotiated a consent decree and settlement agreement avoiding formal litigation. The consent decree and the settlement agreement combined set forth a 20-year schedule to address TMDLs for many stream segments in the State. The USEPA and the New Mexico Environment Department have signed a Memorandum of Understanding outlining tasks the State will complete to meet the terms of the settlement.

TMDLs are "living documents" in that they should be periodically reviewed and updated as conditions and data change. The Environment Department Surface Water Quality Bureau has implemented a watershed based water quality monitoring strategy to continually gather new data. Currently, § 303 of the CWA requires states to review and update their "§ 303(d)" lists of impaired waters every two years. CWA § 303(d) further requires the development of a TMDL for a "§ 303(d)" listed water.

The following are tables of TMDLs adopted by the WQCC. The tables are organized first by river basin, then by year, then by water body (e.g., stream name):

Canadian Basin TMDLs

Year	Canadian Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
1999	**Cieneguilla Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-50000 (Canadian River Basin 2306) 13.6 miles for **fecal coliform**.	*Total Maximum Daily Load for Six-Mile Creek, Cieneguilla Creek, and Moreno Creeks – Cimarron Basin - Fecal Coliform*	November 9, 1999	December 17, 1999
1999	**Cieneguilla Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-50000 (Canadian River Basin 2306) 13.6 miles for **turbidity** and **stream bottom deposits**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**Moreno Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-30000 (Canadian River Basin 2306) 14.4 miles for **turbidity**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**Moreno Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-30000 (Canadian River Basin 2306) 14.4 miles for **fecal coliform**.	*Total Maximum Daily Load for Six-Mile Creek, Cieneguilla Creek, and Moreno Creeks – Cimarron Basin - Fecal Coliform*	November 9, 1999	December 17, 1999

Year	Canadian Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
1999	**North Ponil Creek** from the confluence with South Ponil Creek to the mouth of McCrystal Creek CR2-10400 (Canadian River Basin 2306) 17.6 miles for **turbidity, stream bottom deposits**, and total **phosphorus**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**North Ponil Creek** from the confluence with South Ponil Creek to the mouth of McCrystal Creek CR2-10400 (Canadian River Basin 2306) 10 miles for **temperature**.	*Total Maximum Daily Load For Temperature On North Ponil Creek Canadian River Basin (Cimarron)*	November 9, 1999	December 17, 1999
1999	**Six-Mile Creek** the inflow to Eagle Nest Lake to headwaters CR2-40000 (Canadian River Basin 2306) 6.6 miles for **turbidity**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**Six-Mile Creek** the inflow to Eagle Nest Lake to headwaters CR2-40000 (Canadian River Basin 2306) 6.6 miles for **fecal coliform**.	*Total Maximum Daily Load for Six-Mile Creek, Cieneguilla Creek, and Moreno Creeks – Cimarron Basin - Fecal Coliform*	November 9, 1999	December 17, 1999
2000	**Cieneguilla Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-50000 (Canadian River Basin 2306) 13.6 miles for metals (chronic **aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) In Cieneguilla Creek*	December 12, 2000	February 16, 2001
2000	**Cimarron River** from the mouth on the Canadian River to Turkey Creek (CR2-10000) 35.5 miles for metals (chronic **aluminum**).	*Total Maximum Daily Load For Stream Bottom Deposits In Rayado Creek And Metals (Chronic Aluminum) In The Cimarron River*	December 12, 2000	February 16, 2000
2000	**Rayado Creek** from the mouth on the Cimarron River to Miami Lake diversion (CR2-10100) 16.5 miles for **stream bottom deposits**.	*Total Maximum Daily Load For Stream Bottom Deposits In Rayado Creek And Metals (Chronic Aluminum) In The Cimarron River*	December 12, 2000	February 16, 2000
2001	**Middle Ponil Creek** from the confluence with South Ponil Creek to the headwaters (Canadian River, 2306) for **temperature**.	*Total Maximum Daily Load For Temperature On Middle Ponil Creek*	July 10, 2001	September 27, 2001
2001	**Middle Ponil Creek** from the confluence with South Ponil Creek to the headwaters (Canadian River, 2306) for **turbidity**.	*Total Maximum Daily Load for Turbidity in Middle Ponil and Ponil Creek*	July 10, 2001	September 27, 2001

Year	Canadian Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Ponil Creek** from the mouth on the Cimarron River to the confluence of North Ponil and South Ponil Creeks (Canadian River, 2306) metals (chronic **aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) In Ponil Creek*	July 10, 2001	September 27, 2001
2001	**Ponil Creek** from the mouth on the Cimarron River to the confluence of North Ponil and South Ponil Creeks (Canadian River, 2306) **temperature**.	*Total Maximum Daily Load For Temperature On Ponil Creek*	July 10, 2001	September 27, 2001
2001	**Ponil Creek** from the mouth on the Cimarron River to the confluence of North Ponil and South Ponil Creeks (Canadian River, 2306) **turbidity**.	*Total Maximum Daily Load for Turbidity in Middle Ponil and Ponil Creek*	July 10, 2001	September 27, 2001

Rio Grande Basin TMDLs

TMDLs Completed Prior to 1999[1]

Point Source Load Allocation for the Twining Water and Sanitation District (NPDES Permit NM0022101), Taos County, New Mexico. 1981. [Table 1-1]

Point Source Load Allocation for the Town of Red River (NPDES Permit NM0024899, Taos County, New Mexico. 1982. [Table 1-2]

Point Source Load Allocation for the City of Grants, Cibola County, New Mexico (NPDES Permit No. NM0020737). 1989. [Table 1-3]

[1] Prior to the 2001 revision of the WQMP, TMDLs were categorized in Work Element 6 of the WQMP. TMDLs previously adopted as Work Element 6 have been "relocated" to Work Element 1. The Point Source Load Allocation tables presented herein are copied from the former Work Element 6.

TMDLs Completed After 1999

Year	Rio Grande Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
1999	**Cordova Creek** from the mouth on Costilla to headwaters URG1-30300 (Rio Grande 2120) 3.8 miles for **turbidity, stream bottom deposits**, and **total phosphorus**.	*Total Maximum Daily Load For Turbidity, Stream Bottom Deposits And Total Phosphorus For Cordova Creek*	November 9, 1999	December 17, 1999
1999	**Jemez River** from Rio Guadalupe to the confluence of the East Fork of the Jemez River and San Antonio Creek MRG2-20000 (Rio Grande 2105.5 and 2106) 6.4 miles for **turbidity** and **stream bottom deposits**.	*Total Maximum Daily Load For Turbidity And Stream Bottom Deposits In The Rio Grande Basin (Jemez)*	October 12, 1999	December 2, 1999
1999	**Middle Rio de las Vacas** from the confluence with the Rio Cebolla to Rito de las Palomas MRG2-20200 (Rio Grande 2106) 2 miles for **temperature**.	*Total Maximum Daily Load (TMDL) For Temperature On The Middle Rio de las Vacas*	October 12, 1999	December 2, 1999
1999	**Redondo Creek** from the mouth on Sulphur Creek to the headwaters MRG2-40100 (Rio Grande 2106) 5.2 miles for total **phosphorus**.	*Total Maximum Daily Load For Total Phosphorus For Redondo Creek*	October 12, 1999	December 2, 1999
1999	**Rio Chamita** from the confluence of the Rio Chama to the New Mexico - Colorado border total **phosphorus**, total **ammonia**, and **fecal coliform**.	*Total Maximum Daily Load For The Rio Chamita From The Confluence Of The Rio Chama To The New Mexico - Colorado Border*	August 10, 1999	September 30, 1999
1999	**Rio Chamita** from mouth on the Rio Chama to New Mexico-Colorado border URG2-30500, Rio Grande 2116 12.6 miles for **temperature**.	*Total Maximum Daily Load For Temperature On The Rio Chamita*	November 9, 1999	December 17, 1999
1999	**Rio Guadalupe** from the mouth on the Jemez River to the confluence of the Rio de las Vacas and Rio Cebolla MRG2-20100 (Rio Grande 2106) 2.4 miles for **turbidity** and **stream bottom deposits**.	*Total Maximum Daily Load For Turbidity And Stream Bottom Deposits In The Rio Grande Basin (Jemez)*	October 12, 1999	December 2, 1999
2000	**Santa Fe River** from the Cochiti Pueblo to the Santa Fe WWTP URG1-10300 (Rio Grande 2110) 12.7 miles for **chlorine** and **stream bottom deposits**.	*Water Quality Assessment For The Santa Fe River From The Cochiti Pueblo To The Santa Fe Wastewater Treatment Plant For Chlorine And Stream Bottom Deposits*	January 11, 2000	March 20, 2000

Year	Rio Grande Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2000	**Santa Fe River** from the Cochiti Pueblo to the Santa Fe WWTP URG1-10300 (Rio Grande 2110) 12.7 miles for **dissolved oxygen** and **pH**.	*Total Maximum Daily Load For The Santa Fe River For Dissolved Oxygen and pH*	December 12, 2000	January 11, 2001
2001	**Middle Rio Grande** from northern border of Isleta Pueblo to the southern border of the Santa Ana Pueblo, (Rio Grande, 2105, 2105.1) for **fecal coliform bacteria**.	*Middle Rio Grande Total Maximum Daily Load (TMDL) for Fecal Coliform*	November 13, 2001	May 3, 2002
2002	**Clear Creek** from the confluence with the Rio de las Vacas to San Gregorio Reservoir, (Rio Grande 20.6.4.108) for **turbidity**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**East Fork of the Jemez River** from the confluence with San Antonio Creek to the headwaters, (Rio Grande 20.6.4.108) for **turbidity.**	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**Jemez River** from Rio Guadalupe to the confluence of the East Fork of the Jemez River and San Antonio Creek, (Rio Grande 20.6.4.108) for **metal (chronic aluminum)**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**Redondo Creek** from mouth on Sulphur Creek to the headwaters, (Rio Grande 20.6.4.108) for **temperature** and **turbidity**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**Rio Cebolla** from the confluence with the Rio de las Vacas to Fenton Lake, (Rio Grande 20.6.4.108) for **stream bottom deposits**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**Rio Cebolla** from the inflow to Fenton Lake to the headwaters, (Rio Grande 20.6.4.108) for **temperature** and **stream bottom deposits**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**Rio de las Vacas** from the confluence with Rio Cebolla to Rio de las Palomas, (Rio Grande 20.6.4.108) for **temperature**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**Rio Guadalupe** from the mouth on the Jemez River to the confluence of the Rio de las Vacas and Rio Cebolla, (Rio Grande 20.6.4.108) for **metals (chronic aluminum)**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003

Year	Rio Grande Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2002	**Rito Peñas Negras** from the mouth on the Rio de las Vacas to the headwaters, (Rio Grande 20.6.4.108) for **stream bottom deposits** and **temperature**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**San Antonio Creek** from the confluence with the East Fork of the Jemez River to the headwaters, (Rio Grande 20.6.4.108) for **temperature** and **turbidity.**	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003
2002	**Sulphur Creek** above Redondo Creek to the headwaters, (Rio Grande 20.6.4.108) for **conductivity** and **pH**.	*Total Maximum Daily Load Report for the Jemez River Watershed*	December 16, 2002	June 3, 2003

Gila River Basin TMDLs

Year	Gila River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Black Canyon Creek** from the mouth on the East Fork of the Gila River to the headwaters (Gila River 20.6.4.503) **temperature**.	*Total Maximum Daily Load For Temperature On Black Canyon Creek*	November 13, 2001	April 5, 2002
2001	**Canyon Creek** from the mouth on the Middle Fork of the Gila to the headwaters, 4.5 mi. (Gila River 20.6.4.503) **turbidity**.	*Total Maximum Daily Load For Turbidity On Canyon Creek*	December 11, 2001	April 10, 2002
2001	**Canyon Creek** from the mouth on the Middle Fork of the Gila to the headwaters, 4.5 mi. (Gila River 20.6.4.503) **plant nutrients**.	*Total Maximum Daily Load For Plant Nutrients On Canyon Creek*	December 11, 2001	April 10, 2002
2001	**East Fork of the Gila River** from the confluence with the west fork to Taylor Creek (Gila River, 20.6.4.503) metals (**aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) For The East Fork Of The Gila River And Taylor Creek*	November 13, 2001	April 15, 2002
2001	**Mangas Creek** from the mouth on the Gila River to Mangas Springs, 4.7 mi. (Gila River 20.6.4.502) **plant nutrients**	*Total Maximum Daily Load for Nutrients on Mangas Creek*	December 11, 2001	April 16, 2002

Year	Gila River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Mogollon Creek**, perennial potions above the USGS gauge (Gila River 20.6.4.503) metals (**aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) For Mogollon Creek*	November 13, 2001	April 5, 2002
2001	**Sapillo Creek** from the mouth on the Gila River to Lake Roberts, 5.0 mi. (Gila River 20.6.4.503) **turbidity**.	*Total Maximum Daily Load For Turbidity On Sapillo Creek*	December 11, 2001	April 5, 2002
2001	**Sapillo Creek** from the mouth on the Gila River to Lake Roberts, 5.0 mi. (Gila River 20.6.4.503) **total organic carbon**.	*Total Maximum Daily Load For Total Organic Carbon (TOC) On Sapillo Creek*	December 11, 2001	April 5, 2002
2001	**Taylor Creek** from the confluence with the Beaver Creek to Wall Lake (Gila River, 20.6.4.503) metals (**aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) For The East Fork Of The Gila River And Taylor Creek*	November 13, 2001	April 15, 2002
2001	**Taylor Creek** from the confluence with the Beaver Creek to Wall Lake, 2.9 mi. (**temperature**).	*Total Maximum Daily Load For Temperature On Taylor Creek*	November 13, 2001	August 5, 2002

San Francisco River Basin

Year	San Francisco River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Centerfire Creek** from the mouth on the San Francisco River to the headwaters (San Francisco River 20.6.4.603) **conductivity**.	*Total Maximum Daily Load For Conductivity On Centerfire Creek*	November 13, 2001	April 16, 2002
2001	**Centerfire Creek** from the mouth on the San Francisco River to the headwaters, 7.1 mi. (San Francisco River Basin 20.6.4.603 **plant nutrients**.	*Total Maximum Daily Load For Plant Nutrients On Centerfire Creek*	December 11, 2001	April 16, 2002
2001	**San Francisco River** from Centerfire Creek to the New Mexico-Arizona border (San Francisco River 20.6.4.602) **temperature**.	*Total Maximum Daily Load For Temperature On The San Francisco River From Centerfire Creek To The New Mexico/Arizona Border*	November 13, 2001	April 12, 2002

Year	San Francisco River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**San Francisco River** from Centerfire Creek upstream to the New Mexico/Arizona Border, 15 mi. (San Francisco River Basin 20.6.4.602 **plant nutrients**.	*Total Maximum Daily Load For Plant Nutrients On The San Francisco River from Centerfire Creek Upstream to the New Mexico/Arizona Border*	December 11, 2001	August 5, 2002
2001	**South Fork of Negrito Creek** from the confluence with the North Fork to the headwaters (San Francisco River 20.6.4.603) **temperature**.	*Total Maximum Daily Load For Temperature On The South Fork Of Negrito Creek From The Confluence With The North Fork To The Headwaters*	November 13, 2001	April 5, 2002
2001	**Tularosa River** from the mouth on the San Francisco River to Apache Creek (San Francisco River 20.6.4.603) **conductivity**.	*Total Maximum Daily Load For Conductivity On The Tularosa River*	November 13, 2001	April 5, 2002
2001	**Whitewater Creek** from the mouth on the San Francisco River to Whitewater Campground (San Francisco River 20.6.4.603) **turbidity**.	*Total Maximum Daily Load For Turbidity In Whitewater Creek*	November 13, 2001	April 12, 2002
2001	**Whitewater Creek** from the mouth on the San Francisco River to Whitewater Campground, 5.6 mi. (San Francisco River Basin 20.6.4.603) dissolved chronic **aluminum**.	*Total Maximum Daily Load For Chronic Aluminum On Whitewater Creek*	December 11, 2001	April 12, 2002

Strategy

1) The State of New Mexico will continue to develop TMDLs as specified in the CPP, and following the schedule and terms established in the federal Court monitored consent decree, the settlement agreement, and the MOU between the NMED and the USEPA. Additionally, the state will develop TMDLs as specified in negotiated Clean Water Act § 106 and § 104(b)(3) grant commitments. The State may also act independently of the aforementioned agreements to adopt TMDLs as it may find necessary and appropriate.

2) TMDLs are considered "living documents," and will be reviewed and revised as necessary as new water quality data are received and water quality standards are developed.

3) TMDL implementation will be addressed in individual TMDL documents. TMDL implementation will follow current federal statutory and regulatory structure that WLA allocations are implemented through the NPDES permit program for point

source discharges and the LA is implemented through the voluntary NM Nonpoint Source Management Program.

Work Element 1 Tables

Table 1-1

Point Source Load Allocation for the Twining Water and Sanitation District (NPDES Permit No. NM0022101), Taos County, New Mexico

Parameter	Time Interval	7Q10 [A/] (ft^3/sec)	Effluent Volume (mgd)	Allowable Mass Load (kg/day)	Allowable 30-day Average Conc. (mg/l)	Allowable 7-day Average Conc. (mg/l)
5-day biochemical oxygen demand	annual 3.3	0.095	10.8	30	45	
total suspended solids	annual	3.3	0.095	10.8	30	45
fecal coliform bacteria	annual	3.3	0.095	----	500[B/]	500[B/]
total residual chlorine	annual	3.3	0.095	----	0.04	0.04
total ammonia nitrogen	annual	3.3	0.095	10.8	30	30
total phosphorus	January	3.3	0.095	0.36	1.0	1.0
	February	3.3	0.095	0.36	1.0	1.0
	March	3.3	0.095	0.36	1.0	1.0
	Apri1	4.4	0.095	0.36	1.0	1.0
	May	8.9	0.095	0.72	2.0	2.0
	June	8.9	0.095	0.72	2.0	2.0
	July	6.1	0.048	0.55	3.0	3.0
	August	5.7	0.048	0.55	3.0	3.0
	September	5.0	0.019	0.36	5.0	5.0
	October	4.5	0.019	0.36	5.0	5.0
	November	3.3	0.095	0.36	1.0	1.0
	December	3.3	0.095	0.36	1.0	1.0

[A/] The critical low flow condition in the Rio Hondo is the average low flow that persists for seven consecutive days once every ten years, on the average (7Q10).

[B/] Units are organisms per 100 ml.

Table 1-2

Point Source Load Allocation for the Town of Red River
(NPDES Permit No. NM0024899), Taos County, New Mexico

Parameter	Time Interval	7Q10 [A/] (ft^3/sec)	Effluent Volume (mgd)	Allowable Mass Load (kg/day)	Allowable 30-day Average Conc. (mg/l)	Allowable 7-day Average Conc. (mg/l)
5-day biochemical oxygen demand	annual	5.6	0.485	55.3	30	45
total suspended solids	annual	5.6	0.485	55.3	30	45
fecal coliform bacteria	annual	5.6	0.485	----	500[B/]	500[B/]
total residual chlorine	annual	5.6	0.485	----	0.02	0.02
total phosphorus	January	6.1	0.388	1.5	1.0	1.0
	February	5.9	0.388	1.5	1.0	1.0
	March	5.9	0.388	1.5	1.0	1.0
	April	8.4	0.097	0.37	1.0	1.0
	May	16.3	0.097	2.8	7.5	7.5
	June	18.0	0.485	3.1	1.7	1.7
	July	12.3	0.485	2.2	1.2	1.2
	August	11.3	0.485	2.2	1.2	1.2
	September	10.7	0.097	1.8	5.0	5.0
	October	9.4	0.097	1.5	4.0	4.0
	November	7.4.	0.388	1.5	1.0	1.0
	December	5.6	0.388	1.5	1.0	1.0
total ammonia nitrogen	January	6.1	0.388	44.0	30	30
	February	5.9	0.388	44.0	30	30
	March	5.9	0.388	29.4	20	20
	April	8.4	0.097	7.3	20	20
	May	16.3	0.097	11.0	30	30
	June	18.0	0.485	36.7	20	20
	July	12.3	0.485	25.7	14	14
	August	11.3	0.485	33.0	18	18
	September	10.7	0.097	11.0	30	30
	October	9.4	0.097	11.0	30	30
	November	7 4	0.388	44.0	30	30
	December	5.6	0.388	44.0	30	30

[A/] The critical low flow condition in the Rio Hondo is the average low flow that persists for seven consecutive days once every ten years, on the average (7Q10).

[B/] Units are organisms per 100 ml

Table 1-3

Point Source Allocation for the City of Grants
(NPDES Permit No. NM 0020737), Cibola County, New Mexico.

Parameter	7Q10[1] (ft3/sec)	TMDL[2] (kg/day)	Measured Back-ground (kg/day)	Allowable Mass Load (kg/day)	Allowable Average Conc. (mg/1)	Allowable Maximum Conc. (mg/1)
Total phosphorus (as P)	3.1	1.51	0.76	0.75	0.1	0.1
Total inorganic nitrogen (as N) (NH_3 + NH_4 + $N0_2$ + $N0_3$)	3.1	30.2	9.1	21.1	2.8	2.8
Total ammonia (as N)	3.1	1.89	1.14	0.75	0.15	0.15
Fecal coliform bacteria	NA	NA	NA	NA	100[4]	100
Total chlorine residual	NA	NA	NA	NA	0.005[5]	0.005
Biochemical oxygen demand (5-day)	NA	NA	NA	227[6]	30	NA
Total suspended solids	NA	NA	NA	227[6]	30	NA

[1]The minimum average seven consecutive day flow which occurs with a frequency of once in ten years.
[2]Total maximum daily load (TMDL) = (7Q10 + WWTF design flow (3.08 ft^3/sec)) X WQS X 2.447.
[3]WLA (waste load allocation) = TMDL - MBG (measured background).
[4]Units are 100 organisms per 100 ml.
[5]A water quality-based effluent limitation based on implementation of Section 1-102.F, Hazardous Substances, of the state's water quality standards.
[6]Loads and concentrations for BOD (5-day) and TSS are based on EPA's secondary treatment regulations (40 CFR Part 133); they are not based on water quality standards or TMDL

Work Element 2 – Effluent Limitations
(Revised: December 17, 2002)

Requirements for Work Element 2

Regulation 40 CFR 130.6(c)(2) requires: "*[e]ffluent limitations including water quality based effluent limitations and schedules.*"

Background

The "Effluent Limitations" element is a required (40 CFR 130.6(c)) element in the WQMP. However, according to the same regulation, a plan element may be "…referenced as part of the WQM plan if contained in separate documents…." A plan for effluent limitations is contained in *State of New Mexico Continuing Planning Process, July 1998* (CPP). An Implementation Plan is also incorporated in the NM Standards for Interstate and Intrastate Surface Waters[2]. The intent of this element of the WQMP is to supplement, but not supersede, the CPP and the water quality standards.

As specified in the CPP, the WQCC has determined that the primary mechanism for controlling point source discharges to surface waters ("waters of the United States"[3]) in New Mexico is the NPDES permit program established under § 402 of the federal CWA. The USEPA Region 6 in Dallas, Texas is responsible for issuing NPDES permits in New Mexico that specify the amount and concentration of contaminants that a permittee may discharge to a surface waterbody. The USEPA is also responsible for the enforcement of effluent limitations stipulated by NPDES permits. An unofficial list of NPDES permits may be viewed on the NMED's web page at http://www.nmenv.state.nm.us/swqb/psrlist.html.

Federal regulations, among other requirements, require NPDES permits include **technology based effluent limitations** and other necessary effluent limitations for toxic pollutants and sewage sludge[4]. The USEPA is responsible for development and promulgation of technology based effluent limitations pursuant to §§ 301, 304, 306, 307, and 316 of the Clean Water Act. Federally promulgated technology based effluent limitations are published by USEPA in the Code of Federal Regulations[5].

Federal regulations require NPDES permits must, contain **water quality based effluent limits** (WQBELs)[6] when necessary to protect applicable water quality standards for the receiving water adopted in accordance with CWA § 303. Therefore, WQBELs are required where technology

[2] 20.6.4 NMAC.
[3] As defined in 40 CFR 122.2.
[4] Refer to 40 CFR 122.44(a) and 40 CFR 122.44(b) for more detail.
[5] The term technology based effluent limitations in this section generally refers to the "Secondary Treatment Regulation" (40 CFR 133) for publicly owned treatment works (POTWs); the "Effluent Guidelines and Standards" (40 CFR Subchapter N) for non POTWs, and/or technology based effluent limitations based upon the "best professional judgment" (BPJ) of the permit writer where appropriate. BPJ is usually considered where technology based effluent limitations have not been previously established in regulation for a particular industry.
[6] Refer to 40 CFR 122.44(d) for more detail.

based effluent limits are not sufficient to protect water quality standards. WQBELs may be calculated at the time a permit is issued by the permitting agency or WQBELs may be calculated as part of a WLA in a TMDL.

Federal regulations require NPDES permits must implement (be consistent with) State adopted water quality management plans[7] (e.g., WLAs in TMDLs in Work Element 1 of this WQMP).

The WQCC is authorized under the New Mexico Water Quality Act (NMWQA) [§ 74-6-1 et seq. NMSA 1978] to adopt regulations, including effluent limitations for the protection of surface water quality. The WQCC has adopted regulations for protection of surface water quality specifying effluent limitations under certain specified conditions. These regulations are found in Subpart 2 of the WQCC's Ground and Surface Water Protection Regulations[8]. Effluent limitations for discharges to surface and ground waters are adopted in accordance with all requirements (e.g., public participation) specified in the NMWQA.

The WQCC has, in addition to adopting regulations specifying effluent limitations for discharges to surface waters, previously adopted as part of this WQMP a strategy to control the pH of discharges and the discharge of pathogens (as indicated by fecal coliform bacteria) for the protection of public health and the environment.

The WQCC has adopted, and periodically revises, water quality standards for surface waters in the State of New Mexico. The WQCC through the water quality standards allows, in specified circumstances, schedules of compliance to be included in NPDES permits[9]. Federal regulation also allows for schedules of compliance in NPDES permits under certain limitations[10]. Such schedules of compliance will be for the purpose of providing a permittee with adequate time to make treatment facility modifications necessary to comply with water quality based limitations determined to be necessary to implement new or revised water quality standards. Implementation of schedules of compliance should be in accordance with provisions of the NPDES regulations and the water quality standards.

Where a State, such as New Mexico, is not delegated primacy for the issuance of federal permits (e.g., NPDES permits) pursuant to Section 402 of the federal Clean Water Act, the State in which the discharge originates is authorized to review discharges (and permits) to ensure the discharge will: 1) be compatible with appropriate state law; 2) protect water quality standards adopted in accordance with § 303 of the CWA; and 3) implement an effective water quality management plan. In such review, or certification, the State may: 1) approve the discharge without condition; 2) approve the discharge subject to conditions necessary to meet one of the three aforementioned criteria; 3) deny certification; or 4) waive certification. The NMWQA[11] assigns the responsibility for certifying permits issued under the CWA to the New Mexico Environment Department. The NMWQA also specifies[12] conditions where a certification shall be denied.

[7] 40 CFR 122.44(d)(6) and 40 CFR 130.12(a)
[8] 20.6.2 NMAC
[9] Subsection J of 20.6.4.11 NMAC
[10] 40 CFR 122.47
[11] § 74-6-4.E - NMSA 1978, 1993 Replacement Pamphlet
[12] § 74-6-5.E - NMSA 1978, 1993 Replacement Pamphlet

Strategy

1) The CPP is incorporated herein by reference. Effluent limits and decisions regarding effluent limits should be consistent with the CPP.

2) The NPDES permitting authority will incorporate, as appropriate, technology based effluent limitations in NPDES permits in accordance with federal NPDES regulations;

3) The NPDES permitting authority will review NPDES permit applications and relevant water quality data to determine and include water quality based effluent limits as appropriate and necessary to protect water quality standards;

4) The NPDES permitting authority will incorporate WLAs for point source discharges adopted in TMDLs by the WQCC and approved by the USEPA as part of this WQMP (see Work Element 1);

5) The NM Environment Department will review NPDES permit actions for purposes of state certification[13]. The Environment Department will assure through appropriate review and communication with the permitting authority that permit requirements and effluent limitations are: compatible with appropriate state law, protect water quality standards and implement the water quality management plan.

6) The Environment Department will use the effluent limitation[14] of 500 fecal coliform bacteria per 100 milliliters and the range 6.0- 9.0 for pH for state certifications of NPDES permits except when:

   a. more stringent limitations are needed to meet the antidegradation policy and implementation plan of the New Mexico Water Quality Standards, (20.6.4 NMAC);

   b. the WQCC has adopted more stringent limitation in a point source load allocation.

   In all cases, state-certified effluent limitations for fecal coliform bacteria and pH shall be stringent enough so that receiving waters meet water quality standards.

[13] CWA § 401 and NMWQA § 74-6-4.E.
[14] Strategy number 6 was originally adopted by the WQCC in 1989 in Work Element 6. This strategy is relocated without amendment to this Work Element for continuity.

Work Element 3 – Municipal and Industrial Waste Treatment
(Revised: December 17, 2002)

Requirements for Work Element 3

Regulation 40 CFR 130.6(c)(3) requires:

> *Identification of anticipated municipal and industrial waste treatment works, including facilities for treatment of stormwater-induced combined sewer overflows; programs to provide necessary financial arrangements for such works; establishment of construction priorities and schedules for initiation and completion of such treatment works including an identification of open space and recreation opportunities from improved water quality in accordance with section 208(b)(2) (A) and (B) of the Act.*

Background

New Mexico's plan for waste treatment is addressed in two documents.

The first document is the *Clean Water Needs Survey* (CWNS) that

> *... is required by Sections 205(a) and 516(b)(1) of the CWA. The CWNS is a summary of the estimated capital costs for water quality projects and other activities eligible for SRF support as authorized by the 1987 CWA Amendments. These activities include both facilities and certain water quality program elements. Activities include the planning, design, and construction of publicly owned wastewater collection and treatment systems and projects controlling CSOs, SW, and NPS pollutants. Other eligible water quality program elements are those that involve one-time expenditures supporting the CWA goals, such as program development and implementation*. [From introduction to EPA's "1996 Clean Water Needs Survey Report to Congress -- (EPA 832-R-97-003)]]

In the past the State of New Mexico has participated in these surveys by collecting information and submitting it to the EPA for inclusion in periodic (once every four years) reports Congress. The 1996 Clean Water Needs Survey Report to Congress (EPA 832-R-97-003) is the most recent and current version of the report. More information about the Clean Water Needs Survey and electronic access to the report may be found on the USEPA's website at http://www.epa.gov/owmitnet/mtb/cwns/index.htm

The second document is the *Priority Rating System for Point Source, Nonpoint Source and Brownfields Redevelopment Projects*. Previous priority rating systems for evaluating proposed projects for CWSRF funding were limited to point source discharges. In 2000, NMED's Construction Programs Bureau, in consultation with the Surface Water Quality and Ground

Water Quality Bureaus, revised and prepared an update to the WQCC's 1986 *Water Quality Control Commission Priority Rating System for Wastewater Facility Construction Loan Projects*. The revisions were adopted by the WQCC in a document now known as the *Water Quality Control Commission Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects*.

Strategy

1) The 1996 CWNS is incorporated into the WQMP by reference.

2) The State of New Mexico, principally through the New Mexico Environment Department, will continue to participate in future CWNS data collection efforts.

3) Future CWNS Reports, when finalized by EPA and sent to Congress as required by law, will be automatically incorporated by reference into this element of the WQMP.

4) The 2000 *Water Quality Control Commission Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects* is incorporated into the WQMP by reference.

5) Future revisions of the *Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects* when adopted by the WQCC will be automatically incorporated into this element of the WQMP by reference.

6) New Mexico priorities under this Work Element will be guided by the above documents.

Work Element 4 – Nonpoint Source Management and Control
(Revised: December 17, 2002)

Requirements for Work Element 4

Regulation 40 CFR 130.6(c)(4) requires:

> *(i) The* [Water Quality Management] *plan shall describe the regulatory and non-regulatory programs, activities and Best Management Practices (BMPs) which the agency has selected as the means to control nonpoint source pollution where necessary to protect or achieve approved water uses. Economic, institutional, and technical factors shall be considered in a continuing process of identifying control needs and evaluating and modifying the BMPs as necessary to achieve water quality goals.*
>
> *(ii) Regulatory programs shall be identified where they are determined to be necessary by the State to attain or maintain an approved water use or where non-regulatory approaches are inappropriate in accomplishing that objective.*
>
> *(iii) BMPs shall be identified for the nonpoint sources identified in section 208(b)(2)(F)-(K) of the Act and other nonpoint sources as follows:*
>
> *(A) Residual waste. Identification of a process to control the disposition of all residual waste in the area which could affect water quality in accordance with section 208(b)(2)(J) of the Act.*
>
> *(B) Land disposal. Identification of a process to control the disposal of pollutants on land or in subsurface excavations to protect ground and surface water quality in accordance with section 208(b)(2)(K) of the Act.*
>
> *(C) Agricultural and silvicultural. Identification of procedures to control agricultural and silvicultural sources of pollution in accordance with section 208(b)(2)(F) of the Act.*
>
> *(D) Mines. Identification of procedures to control mine-related sources of pollution in accordance with section 208(b)(2)(G) of the Act.*
>
> *(E) Construction. Identification of procedures to control construction related sources of pollution in accordance with section 208(b)(2)(H) of the Act.*
>
> *(F) Saltwater intrusion. Identification of procedures to control saltwater intrusion in accordance with section 208(b)(2)(I) of the Act.*
>
> *(G) Urban stormwater. Identification of BMPs for urban stormwater control to achieve water quality goals and fiscal analysis of the necessary capital and operations and maintenance expenditures in accordance with section 208(b)(2)(A) of the Act.*
>
> *(iv) The nonpoint source plan elements outlined in Sec. 130.6(c) (4)(iii)(A)(G) of this regulation shall be the basis of water quality activities implemented through agreements or memoranda of understanding between EPA and other departments, agencies or instrumentalities of the United States in accordance with section 304(k) of the Act.*

Background

As defined in federal regulations (40 CFR 122.2), a point source is a discrete discharge of pollutants, as through a pipe or similar conveyance (e.g., a ditch). A nonpoint source (NPS) is essentially any source of pollutant(s) that is not a point source.

Nonpoint sources of water pollution are now widely recognized as the biggest contributors to water pollution in New Mexico, as well as the nation. Principal sources of surface water NPS pollution in New Mexico include erosion from rangelands, agricultural activities, construction, silviculture, resource extraction, land disposal, unsurfaced roads, and recreation. Hydromodification may affect attainment of designated uses by diverting water out of stream channels, by impounding waters, through streambed channelization, and dredge-and-fill activities. Principal known sources of NPS ground water pollution in rural and suburban areas include household septic tanks, cesspools, and agricultural activities.

NPS management is a required component of the WQMP. However, according to federal regulations (40 CFR 130.6(c)), a plan element may be "referenced as part of the WQM plan if contained in separate documents." New Mexico's plan for management of NPS pollution is described in the CPP under the *Process for Establishing and Assuring Implementation of Water Quality Standards* and in *New Mexico Nonpoint Source Management Program, October 1999* (NPSMP).

Strategy

1) Relevant portions of the CPP and the *New Mexico Nonpoint Source Management Program, October 1999* are incorporated into the WQMP by reference.

2) Future CPP revisions, when adopted by the WQCC and approved by the EPA as required by law, will be automatically incorporated by reference into this element of the WQMP.

3) Future revisions to the *New Mexico Nonpoint Source Management Program* will be automatically incorporated by reference into this element of the WQMP upon their approval by USEPA.

4 Revisions to the *New Mexico Nonpoint Source Management Program* will be made and implemented on an as needed basis.

Work Element 5 – Management Agencies
(Revised: December 17, 2002)

Requirements for Work Element 5

Regulation 40 CFR 130.6(c)(5) requires:

> [i]*dentification of agencies necessary to carry out the plan and provision for adequate authority for intergovernmental cooperation in accordance with sections 208(b)(2)(D) and 303(e)(3)(E) of the Act. Management agencies must demonstrate the legal, institutional, managerial and financial capability and specific activities necessary to carry out their responsibilities in accordance with section 208(c)(2)(A) through (I) of the Act.*

Introduction

Prior to the 2001 revision of the Water Quality Management Plan (WQMP), Management Agencies were addressed in Work Element 13 of the WQMP. Management agencies previously designated in Work Element 13 have been "relocated" to Work Element 5.

I. -- Wastewater Management

Background

Under § 208 of the Federal Clean Water Act, WQMPs are to include identification of agencies necessary to implement the Plan and provision for adequate authority for intergovernmental cooperation. Designated Management Agencies (DMAs) must demonstrate legal, institutional, managerial, and financial capability, and specific activities necessary to carry out their responsibilities. As specified at 40 CFR 130.12(b), CWA Section 201 funding can only be awarded to DMAs that are in conformance with the statewide WQMP. Accordingly, 84 municipalities (including Los Alamos County), 2 counties, 11 sanitation or water and sanitation districts, 4 state agencies, and 2 Native American tribal entities have been designated wastewater management agencies. One of the two Native American Tribal entities, the Navajo Tribal Utility Authority, has been designated as an interim wastewater management agency.

The WQCC has the responsibility for designating management agencies. Under federal regulations[15], management agency designations must be certified by the Governor, and the EPA Administrator shall accept such designations unless he/she finds that the designated management agencies do not have adequate specified authorities required in § 208 (c)(2).

[15] 40 CFR 130.6(e)

The Governor certified the designation of 97 wastewater management agencies in 1980. Other additional management agencies were certified in September 1983, August 1984, October 1985, April 1999, and May 2001. A total of 103 wastewater management agencies have been designated.

Incorporated municipalities, counties, and sanitation and water and sanitation districts have the necessary authorities under state law to satisfy the requirements of Section 208(c)(2) of the CWA. State law provides the designated State agencies with the necessary authority to design, construct, operate, and maintain wastewater treatment plants and to accept and utilize State and/or Federal funds for these purposes.

The Navajo Tribal Authority has been delegated the necessary authority by the Navajo Tribal Council to satisfy the requirements of Section 208(c)(2) of the CWA. The Navajo water Commission, the agency responsible for Section 208 planning on the Navajo Reservation, has determined that the Authority should be an interim management agency with the designation to be reviewed annually.

The Pueblo of Pojoaque is a Federally recognized Indian tribal entity and has adequate authority over facilities under its jurisdiction to serve appropriately as a wastewater management agency.

Designated wastewater management agencies are listed in the following tables. Each agency that has accepted this designation shall be responsible for wastewater management in its facility planning area and shall, if the agency satisfies applicable Federal regulations, be able to receive Section 201 construction grants funding.

Designated Management Agencies for Wastewater Management

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Alamogordo	X	
Albuquerque	X	
Artesia	X	
Aztec	X	
Bayard	X	
Belen	X	
Bernalillo	X	
Bloomfield	X	
Capitan	X	
Carlsbad	X	
Carrizozo	X	
Causey	X	
Chama	X	
Cimarron	X	
Clayton	X	
Cloudcroft	X	
Clovis	X	
Columbus	X	
Corona	X	
Cuba	X	
Deming	X	
Des Moines	X	
Dexter	X	
Dora	X	
Eagle Nest	X	
Elida	X	
Encino	X	
Espanola	X	
Estancia	X	
Eunice	X	
Farmington	X	
Floyd	X	
Folsom	X	
Fort Sumner	X	
Gallup	X	
Grady	X	
Grants	X	
Grenville		X
Hagerman	X	

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Hatch	X	
Hobbs	X	
Hope		X
House	X	
Jal	X	
Jemez Springs	X	
Lake Arthur	X	
Las Cruces	X	
Las Vegas	X	
Logan	X	
Lordsburg	X	
Los Alamos County	X	
Los Lunas	X	
Loving	X	
Lovington	X	
Magdalena	X	
Maxwell	X	
Melrose	X	
Moriarity	X	
Mosquero	X	
Mountainair	X	
Pecos	X	
Portales	X	
Questa	X	
Raton	X	
Red River	X	
Reserve	X	
Rio Rancho	X	
Roswell	X	
Roy	X	
Ruidoso	X	
San Jon	X	
San Ysidro	X	
Santa Fe	X	
Santa Rosa	X	
Silver City	X	
Socorro	X	
Springer	X	
Sunland Park	X	

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Taos	X	
Tatum	X	
Texico	X	
Truth or Consequences	X	
Tucumcari	X	
Tularosa	X	
Vaughn	X	
Virden		X
Wagon Mound	X	
Willard		X

COUNTIES Agency Designated	Accepted	Rejected
Valencia	X	
Dona Ana	X	

SANITATION DISTRICTS / WATER & SANITATION DISTRICTS Agency Designated	Accepted	Rejected
Alpine Village Sanitation District	X	
Anthony Sanitation District	X	
Bluewater Water & Sanitation District		X
El Valle de los Ranchos Water & Sanitation District	X	
Lakeshore City Sanitation District	X	
Pena Blanca Water & Sanitation District	X	

SANITATION DISTRICTS / WATER & SANITATION DISTRICTS Agency Designated	Accepted	Rejected
Ranchos de Placitas Sanitation District	X	
San Rafael Water & Sanitation District	X	
Thoreau Water & Sanitation District	X	
Twining Water & Sanitation District	X	
Williams Acres Water & Sanitation District	X	
Yah-ta-hey Water & Sanitation District	X	

STATE AGENCIES Agency Designated	Accepted	Rejected
Corrections Dept.	X	
Dept. of Finance and Administration	X	
Health and Environment Dept.	X	
Natural Resources Dept.	X	

NATIVE AMERICAN TRIBAL ENTITIES Agency Designated	Accepted	Rejected
Navajo Tribal Utility Authority (interim wastewater management agency)	X	
Pueblo of Pojoaque	X	

Strategy

1) As economic development and growth continue in New Mexico, or as the need arises, additional designated management agencies for wastewater will be considered.

2) The WQCC will consider new designated management agencies upon presentation of a petition requesting such designation.

3) Designation of a Management Agency will occur only after appropriate public participation and presentation of relevant authorities by the applicant.

II. Management Agencies for Nonpoint Sources of Pollution

The New Mexico Nonpoint Source Management Program identifies specific agencies and their programs for the implementation of the nonpoint source management and control program. Under the NPSMP, interagency agreements (e.g., MOUs) may be established to outline management responsibilities unique to each agency's area of responsibility and expertise.

Strategy

1) Agencies or organizations participating through formal agreements under the NPSMP will be considered a designated management agency for purposes the WQMP.

Work Element 6 – Implementation Measures
(Revised: December 17, 2002)

Requirements for Work Element 6

Regulation 40 CFR 130.6(c)(6) requires:

> *[i]dentification of implementation measures necessary to carry out the plan, including financing, the time needed to carry out the plan, and the economic, social and environmental impact of carrying out the plan in accordance with section 208(b)(2)(E).*

Background

Schedules that specify when pollution control programs are expected to be implemented are useful in tracking the progress of control programs incorporated into the Water Quality Management Plan. Implementation schedules inform management agencies responsible for the programs and other interested or affected parties of when significant milestones leading to implementation are expected to occur.

According to federal regulations (40 CFR 130.6(c)), a plan element may be "referenced as part of the WQMP if contained in separate documents." The State of New Mexico has elected to utilize its Clean Water Act Continuing Planning Process as an "umbrella" planning document to describe implementation measures employed by the State to protect water quality and to carry out the plan. The CPP utilizes a "modular" approach to planning documents. In this approach, planning and protocol documents are incorporated by reference. This method facilitates updates and improvements of specific modules more readily than rewriting/reviewing an entire document.

Where appropriate or required, individual documents also contain additional implementation procedures specific to that document. For example, section 20.6.4.8 of the New Mexico *Water Quality Standards for Interstate and Intrastate Surface Waters*, [20.6.4 NMAC] defines the State's "Antidegradation Policy and Implementation Plan." In particular, the antidegradation plan addresses economic, social and environmental concerns pertinent to the policy. Another example is the State's Nonpoint Source Management Program that identifies implementation and financing of measures under that program.

Implementation schedules may also be affected by statutory or Court imposed orders. An example of a statutory schedule is CWA § 303(c) that requires States to review their water quality standards every three years. An example of a Court imposed schedule is the Consent decree and settlement agreement that resulted from *Forest Guardians and Southwest Environmental Center v. Carol Browner, Administrator, U. S. Environmental Protection Agency*

and the consequent MOU between the USEPA and the NMED for the development of TMDLs (see Work Element 1).

Measures for financing these programs may arise from a variety of sources including federal grants (e.g., CWA §§ 106, 201, and 319), state budgets authorized by the Legislature, state revolving funds, local governments, cost sharing with stakeholders (public and private) or other means as appropriate to the task.

Strategy

1) The New Mexico Continuing Planning Process is incorporated by reference.

2) Utilize the CPP as a reference guide to program implementation and scheduling.

3) Adhere to statutory, regulatory, and Court sanctioned schedules.

4) Utilize funding sources appropriate to the task.

5) To the greatest extent possible, a schedule should be posted on the NMED's Internet website detailing anticipated or tentative review schedules. Examples, include but are not limited to: triennial review of water quality standards and biennial review of the Clean Water Act section 303(d) list and the section 305(b) report to Congress.

Work Element 7 – Dredge or Fill Program
(Revised: December 17, 2002)

Requirements for Work Element 7

Regulation 40 CFR 130.6(c)(7) requires:

> *[i]dentification and development of programs for the control of dredge or fill material in accordance with section 208(b)(4)(B) of the Act.*

Background

The United States Department of the Army, Corps of Engineers is responsible for issuing permits for activities involving the discharge of dredge and fill materials as required pursuant to § 404 of the federal Clean Water Act. Where a State, such as New Mexico, is not delegated primacy for the issuance of permits (e.g., permits for dredged or fill material) pursuant to the CWA, the State is entitled pursuant to § 401 of the CWA to review discharges (and permits) to ensure the discharge will: 1) be compatible with appropriate state law; 2) protect water quality standards adopted in accordance with § 303 of the CWA; and 3) implement an effective water quality management plan. In such review, or certification, the State may: 1) approve the discharge without condition; 2) approve the discharge subject to conditions necessary to meet one of the three aforementioned criteria; 3) deny certification; or 4) waive certification. The New Mexico Water Quality Act (NMWQA) assigns the responsibility for certifying permits issued under the CWA to the New Mexico Environment Department (§74-6-4.E NMSA 1978). The NMWQA also specifies[16] conditions where a certification shall be denied.

The dredge or fill program is has also been addressed in the *New Mexico Nonpoint Source Management Program*[17].

Strategy

1) The *New Mexico Nonpoint Source Management Program* is hereby incorporated by reference.

2) The NM Environment Department will review dredge or fill permit actions for purposes of state certification. The Environment Department will assure through appropriate review and communication with the permitting authority that permit requirements and effluent limitations are: compatible with appropriate state law, protect water quality standards and implement the water quality management plan.

[16] § 74-6-5.E - NMSA 1978, 1993 Replacement Pamphlet
[17] July 1999 page 47.

Work Element 8 – Basin Plans
(Revised: December 17, 2002)

Requirements for Work Element 8

Regulation 40 CFR 130.6(c)(8) requires:

> *[i]dentification of any relationship to applicable basin plans developed in accordance with section 209 of the Act.*"

Background

Basin plans were initially developed by the State for water quality planning in the early and mid 1970's. In the 1980's the State elected to do its planning on a "state-wide" basis rather than a "basin-wide" basis. The USEPA approved New Mexico Continuing Planning Process, indicates *"the State has chosen to do its water quality management planning on a statewide basis and therefore has no areawide water quality management plans or basin water quality management plans*[18]*."*

Throughout the State, local government organizations and citizens are working to address "local" water issues relating to both quantity and quality. These organizations include voluntary watershed groups, soil and water conservation districts, county and municipal governments, and concerned citizens.

Strategy

1) Continue water quality management planning on a statewide basis.

2) Where appropriate, the state will work with, and encourage participation by local organizations and entities in the development and implementation of water quality management plan strategies in order to consider specific regional or watershed concerns.

[18] 1987 NM Continuing Planning Process, page 7 and 1998 NM Continuing Planning Process page 6.

Work Element 9 – Ground water
(Revised: December 17, 2002)

Requirements for Work Element 9

40 CFR 130.6(c)(9) specifies that:

> "…*States are not required to develop ground-water WQM plan elements beyond the requirements of section 208(b)(2)(k) of the Act.*" [Emphasis added.]

Section 208(b)(2) of the Act states:

> "*[a]ny plan prepared … shall include but not be limited to: … (k) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.*"

Background

The WQCC has adopted comprehensive regulations [20.6.2 NMAC], including ground water quality standards and a discharge permitting program, for the protection of ground water quality under the authority of the New Mexico Water Quality Act (NMWQA). In accordance with the NMWQA [§ 74-6-4 NMSA 1978] the WQCC has delegated responsibility for administering its regulations regarding ground water protection to the New Mexico Environment Department and the New Mexico Oil Conservation Division (NMOCD) of the New Mexico Energy Minerals and Natural Resources Department[19]. The WQCC reviews and changes its regulations, as it deems appropriate.

In conjunction with the department-wide efforts to create/improve electronic databases, the NMED Ground Water Quality Bureau has developed a computerized database. The database addresses aspects of all of the ground water protection programs, including pollution prevention, assessment and abatement, Superfund oversight, and voluntary remediation.

The NMED database is designed to be GIS-compatible and to provide information on site characteristics, including contaminant types, legal entities, regulatory deadlines and issues, public notices, soil and ground water analytical data, well construction details, generalized lithology, and other related information. The database can be used to track regulatory timelines, providing notices of due dates to NMED staff for site-related correspondence and activities. The database may be used by the NMED to respond to public or regulatory-related inquiry, and for supporting production of the 305(b) Report to Congress.

[19] *Delegation of Responsibilities to Environmental Improvement Division and Oil Conservation Division* July 21, 1989.

The NMOCD has developed similar database functions to assist in the implementation of the ground water quality protection regulations.

Strategy

1) The WQCC will update the *Ground and Surface Water Protection Regulations* [20 NMAC 6.2] as necessary to meet arising needs.

2) The NMED and the NMOCD will continue to administer the state regulations for ground water protection in accordance with the WQCC's delegation of responsibilities.

Work Element 10 – Determination of Compliance with Water Quality Standards for the Protection of Human Health Criteria

(Revised: December 17, 2002)

Requirements for Work Element 10

This Work Element is not required by federal regulation.

Background

In March 2002, the NMED SWQB proposed revisions to the *Water Quality Standards for Interstate and Intrastate Surface Waters* (20.6.4 NMAC) to include human health standards. The WQCC at their regularly scheduled open meeting in May 2002 deliberated the March hearing record. Upon deliberation, the WQCC unanimously voted to substitute language in subsection D of 20.6.4.11 to read as follows:

> ***Compliance with water quality standards for the protection of human health shall be determined from the analytical results of representative grab samples, as defined in the Water Quality Management Plan. Human health standards shall not be exceeded.***

The procedures and methods used in the scientific studies necessary to make compliance determinations are found in several documents developed by the SWQB. These documents include the New Mexico Water Quality Standards for Interstate and Intrastate Surface Waters [20.6.4 NMAC], adopted by the WQCC, the State of New Mexico Continuing Planning Process document, reviewed and approved by the WQCC, and the SWQB Quality Assurance Project Plan (QAPP), reviewed and approved by USEPA on an annual basis. The QAPP specifically addresses both laboratory and field procedures, including data interpretation approaches and field sampling techniques. These field procedures are specified in documents known as SWQB protocols, which are incorporated as appendices to the QAPP. The recent action by the WQCC concerning human health priority toxic pollutants relies on grab sample techniques to determine standards compliance. Accordingly, specification of this technique is appropriate.

The USEPA guidance document entitled "NPDES Storm Water Sampling Guidance Document" (EPA 833-B-92-001), July 1992 defines a grab sample on page 37 as "*A discrete, individual sample taken within a short period of time (usually less than 15 minutes). Analysis of grab samples characterizes the quality of a storm water discharge at a given time of the discharge.*" This definition is operationally sufficient for both perennial and ephemeral waters. In order to address the possibility of sampling or analytical error, it is the policy of the SWQB that a minimum of two such samples shall be used to determine accuracy and repeatability of sampling and analytical techniques. A grab sample shall be considered a representative grab sample when the analytical results of that sample have been confirmed as unbiased and reproducible by comparison to the analytical results of a second grab sample. Procedures used for the evaluation

of quality assurance and quality control are found in the QAPP Section 13 Quality Control Requirements and other sections. The analytical results of that single representative sample shall be used for the determination of compliance with applicable human health criteria.

Strategy

1) Sampling for determination of compliance with water quality standards human health criteria shall be accomplished as follows:

a) **Perennial Waters**: A minimum of three individual grab samples, separated in time by no less than 15 minutes each, shall be taken during the same sampling event from the same location. For the purpose of determining noncompliance, the analytical results of 2 or more of these samples must be greater than the applicable human health criteria. Results of all grab samples shall be recorded and reported.

b) **Ephemeral Waters**: A minimum of three individual grab samples, separated in time by no less than 15 minutes each, shall be taken during the same ephemeral flow event from the same location. For the purpose of determining noncompliance, the analytical results of 2 or more of these samples must be greater than the applicable human health criteria. Results of all grab samples shall be recorded and reported.

2) Sampling and analysis shall be in accordance with the SWQB's current QAPP.

Work Element 11 – Public Participation

(Adopted May 13, 2003)

Requirements for Work Element 11

This Work Element is not required by federal regulation.

Applicability Statement

This Work Element applies only to those federal Clean Water Act and NM Water Quality Act programs administered by the NM Environment Department's Surface Water Quality Bureau. These programs include the Point Source Regulation Program, Nonpoint Source Management Program, Total Maximum Daily Load Development Program, Facility Operator's Certification Program, Water Quality Standards Development Program, Monitoring and Assessment Program, and the Surface Water Outreach Program.

Background

Improving New Mexico's surface water quality for present and future generations is a daunting task considering that approximately 45% of New Mexico's perennial streams currently have some level of impaired designation and approximately 74% of the State's lakes do not fully support designated uses (NM Clean Water Act §305(b) Report, 2002). Complicating matters, the major contributor of water pollution is from non-point sources. When rainfall or snowmelt moves over and through the ground picking up and carrying away natural and human-made contaminants, they finally get deposited into our lakes, rivers, streams and wetlands. Given the fact that all individuals living and working in the State affect water quality, public awareness and involvement is crucial to the successful implementation of federal Clean Water Act programs.

Historically, the public's ability to participate in environmental decisions has been limited to review of official government publications such as federal and state registers during defined public comment periods. This includes rules and permit decisions, review of environmental impact statements, and occasional input through a relatively small number of advisory committees. In the early 1980's a shift was made toward a more collaborative process establishing the framework for more multi-stakeholder, consensus-based processes leading toward the expanded public participation initiatives currently being implemented. By implementing this Work Element 11 to seek out and consider invaluable public input and involvement, the SWQB can more effectively promote changes in behavior, and actively improve public involvement to produce both better decisions and greater public acceptance and support for these decisions.

Public participation requirements in programs administered under the federal Clean Water Act are specified in 40CFR25.4 (July 1, 2002), "Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act." This

requires agencies administering these Acts to conduct a continuing program for public information and participation. This program should, at a minimum:

- provide the public with the information and assistance necessary for meaningful involvement;
- provide a central location of reports, studies, plans, and other documents;
- maintain a stakeholder list of affected/interested parties; and
- notify stakeholders in a timely fashion prior to consideration of major decisions (generally should not be less than 30 days).

While the majority of programs administered by the SWQB fall under this federal regulation, some programs have additional, very detailed and specific public participation requirements. The requirements for those programs with additional public participation elements are outlined in the Table below, along with the associated reference.

Public Participation Requirements

Program Element	Actions
Continuing Planning Process (CPP)	• Periodic review by the EPA (*40 CFR 130.5*) • Placement of proposed update on Water Quality Control Commission (WQCC) agenda and discussion of the topic at the open WQCC meeting (*CPP, 1998*) • Minimum 30 day public comment period (*Optional**)
Water Quality Management Plan (WQMP) - Formal Updates	• Placement of proposed update on WQCC agenda and discussion of the topic at the open WQCC meeting (*CPP, 1998*) • Minimum 30 day public comment period and opportunity to request hearing (C*PP, 1998*) • Public meetings across state (*Optional**) • NMED Press Release (*Optional**)
WQMP - Administrative Updates	• Placement of proposed update on WQCC agenda and discussion of the topic at the open WQCC meeting (*CPP, 1998*)
Antidegradation Implementation	• *Currently being drafted (CPP revised version as referenced in the Standards for Interstate and Intrastate Surface Waters, 20.6.4 NMAC)* • NMED Press Release (*Optional**)
Water Quality Standards & WQCC Regulations	• Informal public and stakeholder meetings held to gather information (*Optional**) • Placement of proposed draft standards on WQCC agenda to request public hearing (*NM Water Quality Act 74-6-6A*) • Hearing notice published in NM Register and one newspaper of general circulation and mailed to WQCC mailing list (*CPP, 1998; NM Water Quality Act 74-6-6C*) 45 days prior to hearing date; (*45 day notice requirement in 40 CFR 25, 30 day notice requirement in NM Water Quality Act 74-6-6*)

	• Hearing notice published in additional newspapers in affected area(s) and mailed to entire SWQB mailing list (*Optional**) • NMED Press Release (*Optional**)
Water Quality Surveys	• Conduct Pre-Monitoring Public Meetings prior to conducting the study to inform stakeholders in affected area about upcoming study plan, obtain contacts, and obtain watershed specific information from those living/working within the watershed (*Optional**) • Conduct Public Field Demonstrations at one of the sampling locations during the middle of the study to provide the public an opportunity to observe data collection methods, ask questions, etc. (*Optional**) • NMED Press Release (*Optional**)
Total Maximum Daily Load (TMDL) Documents	• 30 day public comment period (*40 CFR 130.36*) • Public meeting(s) in affected area (*Optional**) • Notice of public comment period and meetings published in at least one newspaper of general circulation and newspaper(s) in affected areas and mailed to stakeholder lists (*Optional**) • NMED Press Release (*Optional**)
List of Impaired Waterbodies (CWA §303(d) List)	• 30 day public comment period (*40 CFR 130.36*) • Notice of comment period published in at least one newspaper of general circulation and newspaper(s) in affected areas and mailed to stakeholder lists (*Optional**) • NMED Press Release (*Optional**)
Request for Proposals (RFPs)	• Published in at least 3 newspapers of general circulation within the state at least 20 days prior to the date set for receipt of proposals (*NM Administrative Code, 1 NMAC 5.2*) • NMED Press Release (*Optional**)

*** For the purposes of this document, Optional is used to identify public participation actions that are not specified in any regulation but are commonly implemented by the SWQB in addition to the requirements spelled out by regulations. While all actions included in the table are usually implemented by the SWQB, on rare occasions, time and/or resources only allow the SWQB the opportunity to complete the minimum required actions. The use of the word "optional" provides the SWQB some flexibility to fulfill only the minimum requirements on the extremely rare occasion when all actions cannot be completed. As stated below, the SWQB will, whenever practical and possible, continue to implement both optional and required elements identified in the table above.**

Strategy

1) Fulfill public participation requirements in accordance with appropriate law/regulation/policy by:
    a. Providing the public with the information necessary for meaningful involvement and informing the public of how they can obtain pertinent documents/information. This information is provided in public notices, at public meetings or hearings, available upon request, or can be obtained from the SWQB website at www.nmenv.state.nm.us/swqb. Brochures, newsletters, fact sheets, press releases, and other media are also utilized, as appropriate, to provide the public with the pertinent documents/information. This information includes appropriate information and documents as well as guidelines on how public meetings or hearings will be conducted.
    b. Providing a central location of reports, studies, plans, and other documents. The SWQB maintains an administrative record, including all study plans and associated documentation (i.e. data, field sheets, etc.). A library of all intensive water quality survey reports is maintained, and reports are available to the public upon request.
    c. Maintaining a stakeholder list of affected/interested parties. The SWQB maintains a database of affected/interested parties. This list includes the WQCC mailing list, the Nonpoint Source Task Force mailing list, environmental organizations, affected entities, and numerous individuals who sign up to receive information. The mailing list is categorized by geographic location and topic(s) of interest and can be subdivided as appropriate. SWQB staff updates the list regularly.
    d. Properly notifying interested parties in accordance with laws/statutes/policies of any upcoming program activities. At a minimum, SWQB publishes in the required newspapers (and register, if necessary), mails notices to interested parties list asking them to post and/or forward to other interested parties, issues an NMED press release, and posts all pertinent documents along with the public notice on the SWQB's website (www.nmenv.state.nm.us/swqb).
2) Whenever practical and possible expand outreach efforts to maximize public participation by seeking out innovative ways of informing and involving the public.
3) Provide public with information on their role in the public participation process by documenting public input and providing a response to public input by explaining how the input was taken into consideration through the public participation process. This information is attached to final documents and provided individually to those who participated in the process.

Appendix 1– USEPA Review and Public Participation 2001/2002 WQMP Update

Review Process

Public review and participation for the 2001/2002 update to the WQMP was performed under the "Process for Updating and Maintaining the Statewide Water Quality Management Plan" section of the 1998 CPP.

Preliminary correspondence with the USEPA regarding WQMP update requirements and strategies began April 9, 2001, by letter outlining a comprehensive approach to the project. On September 28, 2001, a preliminary draft was electronically transmitted to EPA requesting comment. On October 29, 2001, USEPA responded to the Surface Water Quality Bureau with their comments. On December 5, 2001, and December 20, 2001, the Surface Water Quality Bureau responded to USEPA's comments with revised preliminary drafts. On December 21, 2001, the USEPA provided the Surface Water Quality Bureau with a letter of Technical Acceptance of the preliminary draft. This review and Technical Acceptance indicated that, if adopted as proposed, the EPA would be able to approve the December 20, 2001 draft of the proposed revisions to the WQMP as required by the Code of Federal Regulations. The December 20, 2001 version then became the basis of public comment.

Public review was initiated by letter to the WQCC, a news release, electronic mailing to interested parties, U.S. Postal Service mailing to the WQCC mailing list, and public notice issued January 18, 2002 published in the Albuquerque Journal (January 18, 2002), The Santa Fe New Mexican (January 21, 2002), the Farmington Daily Times (January 18, 2002), the *Las Cruces Sun News* (January 18, 2002), and the Roswell Daily Record (January 18, 2002). The draft WQMP and public notice was also posted on the NMED's web page. A sixty-day comment period (double the 30-day minimum specified in the CPP) was provided. During the 60-day comment period the Surface Water Quality Bureau held four public meetings at various locations throughout the State. Public meetings were held in Las Cruces (February 4, 2001 – 7 attendees), Roswell, (February 5, 2001 – 3 attendees), Santa Fe (February 6, 2001 – 13 attendees) and Farmington (February 7, 2001 – 16 attendees). During the comment period the SWQB also received (and fulfilled) a request to present the proposed revisions to the winter meeting of the Western Coalition of Arid States (WESTCAS). WESTCAS meeting attendees included representatives of western state's and USEPA water quality program officials and managers. WESTCAS was particularly interested in SWQB's approach to the plan by presenting a maximum amount of information through the electronic format. The Surface Water Quality Bureau prepared and mailed to all meeting participants a summary document of oral comments and discussion that occurred during the public meetings. Written comments were received from several citizens and organizations. The draft WQMP and the public participation process was presented and discussed at the April WQCC regularly scheduled open meeting.

Response to Comments Received January 18 through March 19, 2002

The SWQB greatly appreciates the effort and thought the commenters provided.

General Issues

Where similar comments from separate commenters occurred they have been compiled into a single general issue for response.

General Issue # 1

The introduction to the document should be updated, expanded, and retained to better inform the reader as to the purpose of the document. The introduction should be understandable to the public and readers not already familiar with the document.

Response to General Issue # 1

The Introduction was rewritten to better explain the purpose. A new "Preface" section was also added to describe the WQMP update process and goals.

General Issue #2

There were numerous widely different comments on the overall quality and approach to this update of the WQMP. One commenter expressed dissatisfaction that the document was "not intelligible to a member of the public on first encounter, … the documents seem focused on 'rote compliance' rather than informing and involving the public, … looking at the other states I would rank our efforts dead last … I suggest that an examination of the whole documentation structure needs to be undertaken…." [Mechels]. In contrast other commenters were laudatory of the effort stating the approach was "… exceptionally helpful" [Dairy Producers], "… we support the approach that the Environment Department is taking to simplifying the … Plan" [San Juan Coal Company] "… it is refreshing to me that your agency has chosen to show respect for the people you serve by making the process and information physically and intellectually accessible [and] … done a good job refining the WQMP" [Oldham] and that "… this innovative approach is likely to serve as a model for other states. [LANL]."

Many commenters expressed appreciation and support for the public meetings held throughout the state.

Response to General Issue # 2

Obviously no document is all things to all people. The SWQB greatly appreciates the effort and thoughts of all those persons who attended the public meetings and provided verbal participation as well as those who provided written comments. SWQB has reviewed each comment and did make some changes to help the reader, particularly the "lay person" such as adding a preface and expanding the introduction. It is helpful to understand the broad spectrum of the users of this document for this and future endeavors.

General Issue #3

The CPP and the WQMP both need revision and these revisions should be done concurrently.

Response to General Issue #3

To revise both documents concurrently would be unwieldy and confusing to many who wish to participate. The goals of the current effort, primarily updating a compilation version of the Water Quality Management Plan, have been added to the preface of the document. The SWQB encourages commenters to stay involved as progress is made toward building on the new foundation of the WQMP.

General Issue # 4

Two commenters (Forest Guardians and San Juan Water Commission) addressed concern for the WQCC current statewide approach to planning as opposed to basin planning.

Response to General Issue # 4

As indicated in the current CPP the State has chosen to do its planning on a statewide basis. As stated in the new preface section of the WQMP the goals of this effort do not encompass or address such a large revision to existing policy. This is an issue that should be addressed in its own separate forum. This recompilation / update of the WQMP should provide a clean foundation for initiating future discussions as suggested by these commenters.

Specific Issues

(Note: issue numbers below do not correspond to numbers assigned by the commenter in their correspondence).

The following are responses to specific issues in written comments not addressed in general responses. Specific comments are briefly summarized below. The full context of the comment is available through the electronically attached copy of each commenter's submittal.

Concerned Citizens for Nuclear Safety (CCNS) Issues

Concerned Citizens for Nuclear Safety Issue # 1

The Public Participation work element should not be deleted. Public participation is an essential component of a management plan and informing the public of government actions and decision-making. Eliminating the public participation element would violate 40 CFR 130.6(c)(9)(v).

Response to CCNS Issue # 1

SWQB recognizes the value of public participation. SWQB encourages and is actively seeking new ways to improve accessibility and public participation. In this light, SWQB sponsored four public meetings throughout the State to consider the WQMP revisions. The intent of this

document utilizing an electronic format is to facilitate public access to large volumes of information through a single document. SWQB has a full time public outreach coordinator who is in the process of completing a draft public participation protocol for all the Bureau's activities. This protocol is undergoing internal and USEPA review. SWQB will seek public review of the protocol in the near future.

The public participation work element ("old" Work Element 11) was last revised in 1978. Public Participation and outreach is a key aspect of all of the subprograms under the Clean Water Act and the Water Quality Act (e.g., water quality standards development, TMDL development, regulation review etc.). Public Participation is described in individual programmatic plans (e.g., the Nonpoint Source Management Plan) and the Continuing Planning Process document. Public review of this WQMP proposal was carried out in accordance with requirements specified in the CPP. The emphasis of old W.E. 11 as adopted in 1978 focused on CWA §208 planning and how public input was obtained in reaching the 1978 plan. Some references to federal regulations within the old W.E. 11 are now obsolete. Finally procedures for public participation and education in 1978 could not have envisioned and therefore do not address the current power of the Internet and electronic documents as a means of outreach. In the future, planning efforts will continue to directly incorporate public participation procedures in documents such as the CPP, and may be incorporated as a modern work element in future revisions/updates to the WQMP.

SWQB disagrees that eliminating the public participation element at this time would violate 40 CFR 130.6(c)(9)(v). 40 CFR 130.6(c)(9) is the requirement for a Ground Water work element. Paragraph 9 states:

> *...[i]f a State chooses to develop a ground-water quality plan element, it should describe the essentials of a State program and should include, but is not limited to: ...(v) [p]rocedures for program management and administration including ... public participation....* [Emphasis added.]

EPA's use of the term "should" indicates inclusion is not mandatory. However, the Work Element 9 references the WQCC Regulations for Ground and Surface Water Protection found at 20.6.2 NMAC. Those regulations (e.g., 20.6.2.3108 NMAC – Public Notice and Participation and 20.6.2.3110 NMAC – Public Hearing Participation) spell out public participation requirements for the ground water protection program. Finally, SWQB consulted with the USEPA regarding the proposed revisions to the WQMP prior to public notice to ascertain if the revisions met the requirement of the Clean Water Act and the Code of Federal Regulations. The USEPA responded that the document as proposed was "technically acceptable."

C. Mechels Issues

Mechels Issue #1

NMED must undertake a major upgrade of its web site.

Response to Mechels Issue #1

While not directly related to the WQMP, NMED agrees that the website should be a major tool in communicating with the public and the regulated community and continues to work toward improving and expanding its website. Internal work groups have been formed and SWQB is participating in that effort.

E. Oldham Issues

E. Oldham Issue # 1

The plan is reactive and not proactive. I expect the limitations lie in the enabling legislation, and as such are beyond your authority … there is a legal and regulatory disconnect between water rights, water supply, and water quality.

Response to E. Oldham Issue #1

The SWQB appreciates the time and effort that you have put into local water issues and would encourage you to continue to voice your concerns.

Forest Guardian Issues

Forest Guardians Issue #1

In general, we [Forest Guardians] find the WQMP draft to be inadequate due mainly to it's [sic] reference to numerous other documents (the Continuing Planning Process in particular) that are currently being revised and/or are not yet approved by EPA. In referring to the CPP, the WQMP places most of it's implementation measures and authority in that document, one which is being revised and is as yet unapproved by the EPA. The Clean Water Act explicitly states there must be *adequate authority and implementation in a WQMP*. §303(e)(3)(E and F), 33 U.S.C.A. §1313 (emphasis added). By deferring this implementation and authority to other documents like the CPP, NMED is not following this mandate of the CWA.

Response to Forest Guardians Issue # 1

The SWQB is currently involved in drafting revisions to the CPP. However, the 1998 CPP that is referenced throughout the draft WQMP has been approved by the USEPA. SWQB consulted with the USEPA regarding the proposed revisions to the WQMP prior to public notice to ascertain if the revisions met the requirement of the Clean Water Act and the Code of Federal Regulations. The USEPA responded that the document as proposed was "technically acceptable."

Forest Guardians Issue #2

Forest Guardians provided extensive comment on the voluntary nature of implementing Best Management Practices in TMDLs and their opinion that the WQMP should establish more clearly what regulatory mechanisms would be used to ensure that appropriate control actions are taken.

Response to Forest Guardians Issue # 2

The many TMDLs listed in the compilation revision of Work Element 1 have all been previously reviewed by the public, adopted by the WQCC and approved by the USEPA. This compilation revision did not open the TMDLs for additional debate or approval. The purpose of this revision to the WQMP was to compile existing TMDLs and relocate those TMDLs from one Work Element to another. Forest Guardians is encouraged as are other members of the public to participate in the development and implementation of TMDLs in the forum provided as each TMDL is developed, reviewed, and approved.

Individual TMDL plans include implementation measures specific to that plan. As stated in the "background" section of the Work Element 1, current statutory and regulatory frameworks provide for implementation through the NPDES permit program for point source discharges and the CWA section 319 Nonpoint Source Management program for other sources. To help clarify this SWQB has added Strategy #3 to the Work Element to address this approach.

Presently, there is no requirement under the federal Clean Water Act for reasonable assurances for implementation of nonpoint source TMDLs. As stated in existing guidance (Guidance for Water Quality-Based Decisions: The TMDL Process, EPA 440/4-91-001, April 1991) implementation of nonpoint source TMDLs is through voluntary programs, such as section 319 of the Clean Water Act. According to the proposed regulations for TMDLs (40 CFR 130.2[p]), site-specific or watershed-specific voluntary actions are mechanisms that may provide reasonable assurances for nonpoint sources. The SWQB has implemented TMDLs statewide through a strong Watershed Protection Program. This program will continue to provide for the implementation of nonpoint source TMDLs.

Pursuant to Section 303(e)(1) of the Clean Water Act (CWA), the Surface Water Quality Bureau (SWQB) has established appropriate monitoring methods to evaluate the effectiveness of controls or Best Management Practice (BMP) activities. In order to optimize the efficiency of this monitoring effort, the SWQB has adopted a rotating basin monitoring strategy. This strategy is based on a 5-7 year return interval, and provides improved coordination and monitoring of BMP effectiveness.

Implementation plans are included in every TMDL in New Mexico. As stated in the TMDL document, this is a general implementation plan for activities to be established in the watershed. The SWQB will further develop the details of the plan with the help and cooperation of the stakeholders and other interested parties in the watershed. Detailed watershed management plans that include specific BMPs should be developed by and for watershed stakeholders. In this watershed, public awareness and involvement will be crucial to the successful implementation of

this plan and improved water quality. Staff from the SWQB will work with stakeholders to provide the guidance in developing the Watershed Restoration Action Strategy (WRAS). The WRAS is a written plan intended to provide a long-range vision for various activities and management of resources in a watershed. It includes opportunities for private landowners and public agencies to reduce and prevent impacts to water quality. This long-range strategy will become instrumental in coordination, reducing, and preventing further water quality impacts in the watershed. SWQB staff assists with technical assistance such as the selection and application of BMPs needed to meet WRAS goals. The watershed management plans would include any specific BMPs for activities, such as grazing or road runoff and maintenance that are identified as contributing to the water quality impairment. It is not the intention of the SWQB to provide an all inclusive watershed management plan in the TMDL documents. In order to obtain reasonable assurances for implementation in watersheds with multiple landowners including Federal, State, and private land, the SWQB has established Memoranda of Understanding (MOUs) with various Federal and State agencies. These MOUs provide for co-ordination and consistency in dealing with Nonpoint source issues. Milestones are also used in the implementation plans in the TMDL documents to determine if BMPs are implemented and standards attained.

Forest Guardians Issue #3

Forest Guardians in an extensive comment assert that the WQMP must include implementation procedures for consultation with the U.S. Fish and Wildlife Service to comply with the Endangered Species Act.

Response to Forest Guardians Issue # 3

The Code of Federal Regulations (40 CFR 130.6) specifies the nine required elements of a WQMP [see revised Introduction to the WQMP]. SWQB consulted with the USEPA regarding the proposed revisions to the WQMP prior to public notice to ascertain if the revisions met the requirement of the Clean Water Act and the Code of Federal Regulations. The USEPA responded that the document as proposed was "technically acceptable."

LANL Issues

Los Alamos National Laboratory (LANL) Issue #1

LANL urges NMED and the WQCC to archive records with the State Records Center so there is public access to these records.

Response to LANL Issue # 1

SWQB agrees archiving WQCC records is important. While not directly responsible for archiving WQCC documents, SWQB is aware that many WQCC documents are already in archive at the State Records Center.

As shown in the TMDL tables of Work Element 1, SWQB has begun to use the capabilities of electronic documents by incorporating hyperlinks to relevant documents such as WQCC minutes and correspondence from EPA approving the TMDLs to enhance the public record.

Los Alamos National Laboratory Issue #2

LANL provided extensive comment on the overall planning process and useful comparisons on the intent and requirement of the WQMP and the CPP.

Response to LANL Issue # 2

SWQB appreciates the time and effort of LANL in providing this useful information and would encourage LANL to continue to participate in future water quality planning initiatives. As stated in the new Preface SWQB envisions this compilation and update of the WQMP to be the precursor to building a stronger WQMP in future actions. The information will also be useful in future review of the CPP.

Los Alamos National Laboratory Issue #3

LANL commented that this plan "does not identify priority water quality problems or issues."

Response to LANL Issue #3

SWQB partially agrees with LANL and, as in the previous comment, believes that this might be an area to explore in future reviews in that priorities might be more explicit. However, by default, inclusion of certain issues in the WQMP is an expression of priority. For example TMDLs in Work Element 1 are developed and adopted in response to problems noted in watersheds via the CWA §303(d) list. Another example of how the WQMP is working to prioritize is through the incorporation by reference of the *New Mexico Nonpoint Source Management Program*. The Nonpoint Source Management Program details how nonpoint source project will be prioritized.

Los Alamos National Laboratory Issue # 4

LANL suggested insertion in the introduction of a matrix that indicates the disposition of the all the old work elements / work element strategies.

Response to LANL Issue #4

SWQB summarized the disposition of the various affected work elements in the PowerPoint® presentation made to the public in February 2002 and the similar but slightly different PowerPoint® presentation made to the WQCC in April 2002. The SWQB had prepared a "proposed action table" of notes in the process of preparing this revision that addresses LANL's issue. The Table would not be appropriate in the introduction as suggested by LANL because of its size and format. However SWQB includes the notes or Proposed Action Table in this response to comments that is appended to the WQMP and should therefore serve those interested in the question.

Los Alamos National Laboratory Issue # 5

The list of TMDLs could be adequately presented in a table that would not occupy as much space.

Response to Issue # 5

SWQB concurs and has reformatted the information into a table format.

Los Alamos National Laboratory Issue #6

Work Element 1 should include a description of the prioritized TMDL activities and issues that will be the focus of the coming years work.

Response to Los Alamos National Laboratory #6

Strategy 1 for Work Element 1 addresses this issue. At the time the draft WQMP was prepared an electronic copy of the Forest Guardians/USEPA Settlement Agreement was not available thus no hyperlink was provided. An electronic copy of the Settlement Agreement has been created and a hyperlink created. Access to a copy of the Settlement Agreement will provide additional information.

Los Alamos National Laboratory Issue # 7

Tables 1-1, 1-2, and 1-3 are point source load allocations that were established by TMDLs prior to 1999. It seems these tables should be in Work Element 2.

Response to Los Alamos National Laboratory Issue #7

Tables 1-1, 1-2, and 1-3 are from TMDLs and therefore SWQB believes inclusion in Work Element 1 is appropriate. These tables are included separately because due to their age they are not available electronically *in toto*. The intent of Work Element 2 is to define a process for NPDES effluent limitations rather than a list. USEPA has reviewed this approach and has provided a letter that this approach is technically acceptable.

Los Alamos National Laboratory Issue #8

A list of NPDES permits, with the location of discharge and status should be provided in this plan or hyper linked to the plan. A list of NPDES permits is available on the NMED website.

Response to Los Alamos National Laboratory Issue #8

The SWQB maintains a list of NPDES permits on its website for informational purposes. A reference to the website address has been added to the "Background" section of Work Element 2.

Los Alamos National Laboratory Issue #9

In Work Element 2, strategies 2, 3, and 4 are EPA responsibilities and it is not clear why they are part of the strategy for New Mexico.

Response to Los Alamos National Laboratory Issue #9

As stated in the Background of Work Element 2, the USEPA currently has the responsibility to issue NPDES permits. The language utilized in strategies 2, 3, & 4 does not refer directly to EPA but refers appropriately to the "NPDES permitting authority" whether that is the USEPA or the State. The strategies are also informative to the public.

Los Alamos National Laboratory Issue # 10

Work Element 2 should include a description of prioritized NPDES activities and issues that will be the focus of the coming years as required by 40 CFR 130.6(b).

Response to Los Alamos National Laboratory Issue # 10

As noted in the Work Element the State is not delegated primacy for the NPDES permit program. NPDES permitting priorities are set by permitting agency. The State's priorities are expressed in strategies 5 & 6 and the background information that describes the importance of those activities (e.g., review and certification of proposed NPDES permits to assure all permits are compatible with appropriate state law, protect state adopted water quality standards and implement the state adopted water quality management plan). USEPA has reviewed this approach and has provided a letter that this approach is technically acceptable.

Los Alamos National Laboratory Issue # 11

In Work Element 3 the referenced documents should be hyperlinked.

Response to Los Alamos National Laboratory Issue # 11

Additional hyperlinks have been added.

Los Alamos National Laboratory Issue # 12

Work Element 3 should include a description of the prioritized waste treatment activities and issues that will be the focus of the coming years as required in 40 CFR 130.6(b).

Response to Los Alamos National Laboratory Issue # 12

An additional strategy (#6) has been added to Work Element 3 to clarify that New Mexico's priorities will be guided by the documents referenced in the Work Element.

Los Alamos National Laboratory Issue # 13

The description of Work Element 4 should be expanded to include the use of BMPs controlling nonpoint sources and funding for nonpoint source pollution control activities. The expanded description should be comparable to Work Elements 1 and 2.

Response to Los Alamos National Laboratory Issue # 13

The Nonpoint Source control program including the use of BMPs and funding descriptions is fully described by the *New Mexico Nonpoint Source Management Program* document that is incorporated into the WQMP by reference as indicated in Strategy 1 and the list of documents incorporated by reference.

Los Alamos National Laboratory Issue # 14

Work Element 4 should include a schedule for revision of the Nonpoint Source Management Plan and should also include the prioritized nonpoint source management activities for the coming years as required in 40 CFR 130.6(b).

Response to Los Alamos National Laboratory Issue # 14

The Clean Water Act does not specify a particular timeframe for revision of the Nonpoint Source Management Plan adopted in accordance with Section 319 of the Act. Therefore, EPA indicates the Plan only needs to be revised as needed. Another strategy has been added to indicate the Plan will be revised as needed

The method of prioritization of nonpoint source activities is contained in the Nonpoint Source Management Plan that is incorporated by reference. For example, the Plan provides for the prioritization of projects, solicited through an annual Request For Proposal process. According

to the Plan, projects in impaired waterbodies identified through the CWA §303(d) list will receive a higher priority than proposed project in non-impaired waters. USEPA has reviewed this approach and has provided a letter that this approach is technically acceptable.

Los Alamos National Laboratory Issue # 15

LANL suggested an editorial change of removing the "rejected column" of Designated Management Agencies in Work Element 5.

Response to Los Alamos National Laboratory Issue # 15

SWQB appreciates the comment but in this effort the SWQB has with only minor changes (i.e., additions since the table was last printed and word processing changes) transplanted the tables of earlier versions of the WQMP into this version.

Los Alamos National Laboratory Issue # 16

In Work Element 6 the Background section should include a schedule.

Response to LANL Issue # 16

The Work Element does not require schedules; explanations of what kinds of implementation measures are identified and strategies for schedules are appropriate.

Los Alamos National Laboratory Issue # 17

In Work Element 6, an explicit listing of funding programs that are used for water pollution control activities should be provided.

Response to Los Alamos National Laboratory Issue # 17

The last paragraph of the Background section of this Work Element provides such a listing.

Los Alamos National Laboratory Issue # 18

In Work Element 9, LANL suggests the discussion is out of place within the context of the work element and that a concise overview of the regulations would be more consistent.

Response to Los Alamos National Laboratory Issue # 18

A concise overview of the regulations is presented in the first paragraph of the background and a link is provided to the regulations that "speak for themselves." The discussion on databases at

the Bureau and Department levels is appropriate. Database management and computer technology (e.g., geographic information systems) in a modern and efficient workplace are critical tools in the process to control the disposal of pollutants.

San Juan Coal Company

San Juan Coal Company Issue # 1

San Juan Coal strongly disagrees with the inconsistent approach proposed for the TMDL element, that [they] understand has been pushed by EPA. The planning document is not the place for a library of every TMDL. San Juan supports the NMED's approach taken with other elements, i.e., a summary of how the element fits into the plan and hot links to additional information. That approach will work equally well with the TMDL elements. The Water Quality Plan can include a hot link to the TMDL program library … recreating that library in the WQMP is inefficient and redundant use of our state staff. The EPA's proposed approach is also inconsistent with the Federal Paperwork Reduction Act because it not only forces a duplication of effort, but creates duplicate "electronic paper" that occupies computer space.

Response to San Juan Coal Company Issue #1

SWQB feels the detailed listing of TMDLs in the revised table is useful to the public and the agency. The TMDL tables with their hot links serve as a compilation and directory to very important documents with high public interest. The electronic document approach adopted by SWQB streamlines the WQMP dramatically. SWQB cannot comment on EPA's approach to these documents but feels that the approach the SWQB has adopted is useful to the Commission and the public.

San Juan Water Commission Issues

All of San Juan Water Commission's issues were addressed under the general issues above.

Supplement

On August 13, 2002, during the WQCC's regularly scheduled monthly meeting, the Environment Department SWQB presented the WQCC the above response to public comments including revisions based upon the public comments for Work Elements 1 through 9. The SWQB also proposed a new Work Element 10. Work Element 10, titled "Determination of Compliance with Water Quality Standards for the Protection of Human Health Criteria" was proposed in response to the WQCC's April 2002, decision to adopt new human health criteria in the Water Quality Standards for Interstate and Intrastate Surface Waters (20.6.4.11 NMAC) which included a requirement that:

> *[c]ompliance with water quality standards for the protection of human health shall be determined from the analytical results of representative grab samples, as defined in the Water Quality Management Plan.*. [Emphasis added.]

The proposal for Work Element 10 was developed after the WQCC directed the SWQB to do so at its July 2002 meeting. The SWQB reviewed the transcript of hearing for the human health water quality criteria proposal held in March 2002 to determine whom in that hearing had expressed interest or concern about this issue. Hearing participants on this point were the Los Alamos National Laboratory, the San Juan Water Commission and Mr. John Hernandez. Due to time constraints, the SWQB met with LANL representatives and created a draft that was promptly communicated to Mr. Hernandez and the SJWC for comment. SWQB received comments from LANL and Mr. Hernandez in time for the comments to be incorporated in the draft sent to the WQCC two weeks prior to their August meeting. SWQB also received written comments from the SJWC but not in time to be included in the draft sent WQCC.

The WQCC decided to: 1) provide another 30-day public comment period; and 2) schedule a formal public hearing on October 1, 2002 for the WQMP proposals (provided a written request for such a hearing was received during the 30-day period). A public notice was issued and published in New Mexico Register and the Albuquerque Journal. By letter dated August 15, 2002, the USEPA was formally notified by certified mail of the proposed revisions. Additional public comments and several requests for public hearing were received in response to the notice.

Response to Comments Received August 13 through September 12, 2002

(Note individual comments are briefly summarized below, full text of the comment may be viewed electronically).

Where similar comments from separate commenters occurred they have been compiled into a single general issue for response.

General Issues

There were several comments by the San Juan Water Commission and the Los Alamos National Laboratory regarding Work Element 10. Comments focused on sampling technique and frequency. The full text of the comment may be viewed electronically).

Response to General Issue

The SWQB's response will be offered as testimony at the October 1, 2002 hearing.

Specific Issues

Concerned Citizens for Nuclear Safety Issues

Concerned Citizens for Nuclear Safety resubmitted their comments of March 19, 2002. No new comments were received.

C. Mechels Issues

C. Mechels Issue #1

The proposed revisions should be rejected because the NMED has not met its obligation to involve the public. The NMED did not use suitable materials for briefings; the NMED did not meet commitments to meet with members of the public etc.

Response to Mechels Issue # 1

The SWQB believes it has met or exceeded all requirements to involve the public. There is no specific requirement in the New Mexico Water Quality Act regarding WQMP updates. The degree of involvement for updates to the WQMP is outlined in the WQCC's approved CPP. The CPP categorizes two types of updates: "administrative" and "updates that require formal notice and may require a public hearing." For "administrative updates, *"...placement of a proposed update on the agenda of a Water Quality Control Commission meeting constitutes adequate public notice ... these updates must be approved by the Water Quality Control Commission at an open meeting."* For updates that require formal public notice, the CPP provides:

- *... during development of a proposed update, NMED (alone or in conjunction with other entities) may provide information, solicit comments, or hold informal public meetings in the geographic area likely to be impacted or other appropriate area;*
- *... [w]here appropriate, a proposed update may be submitted to EPA in draft form for technical review before presentation to the Water Quality Control Commission;*
- *... there shall be at least thirty days allowed for the public to comment and to request a public hearing before the Commission acts on a proposed update; and*
- *... the Commission shall hold a formal public hearing if there are written requests for a hearing and the Commission determines there is significant public interest ... public notice shall be issued 45 days before the hearing.*

The SWQB sought and obtained comments from the USEPA prior to releasing its first public proposal to assure the proposal was viable before asking the WQCC and the public to spend valuable time in review.

The SWQB initially requested placement on the January 2002 WQCC regular monthly meeting. Unfortunately the WQCC did not hold a January meeting however the SWQB had already set into motion other public announcement and schedules for public meetings. The proposal was published on the proposed agenda for the WQCC's next regular meeting in March 2002. The

WQCC deferred the agenda item to April. The proposal appeared again on the April 2002 regular meeting agenda and was publicly heard by the WQCC on that date.

The initial public comment period was between January 18 and March 19; a period of 60-days that is twice the required 30-day period.

The SWQB held four advertised public meetings in Las Cruces, Roswell, Santa Fe, and Farmington. The meetings and their topic were advertised in the *Albuquerque Journal*, the *Santa Fe New Mexican*, the *Las Cruces Sun News*, the *Roswell Record,* and the *Farmington Daily Times*. News releases were also issued to the public and media by the NMED.

No request for public hearing was received during the January through March public comment period. The WQCC did receive oral requests at the April meeting. A public hearing was scheduled and announced by the WQCC on August 13, 2002 at their regular meeting during the publicly announced and scheduled agenda item regarding the WQMP update. The scheduled date for the hearing was October 1, 2002, 48 days subsequent to their announcement. The WQCC at the same August meeting opened another 30-day public comment period.

Throughout the process of updating the WQMP, the SWQB has upon invitation discussed the plan with interested parties such as WESTCAS, the Western Coalition of Arid States, and with interested individuals, including Mr. Mechels, who either visited our office or inquired by phone. The proposal and various public notices have been posted the NMED SWQB website since January 19, 2002. The SWQB responded positively to all requests to meet with any interested party on this topic.

The SWQB met and or consulted with identifiable stakeholders in the development of the new Work Element 10 as it promised it would after being directed by the WQCC to develop a solution to the definition of human health criteria compliance sampling at the April WQCC meeting. Please see the above discussion in this supplement regarding Work Element 10.

As noted in the SWQB's earlier response to general comments (General Issue #2), other public and stakeholder reviewers found the SWQB's effort and presentations useful.

C. Mechels Issue #2

The proposed plan does not meet an essential requirement, made clear in the April 9, 2001 letter from NMED to EPA *"The final Plan will be designed to provide easily accessible information to ... the public in an efficient and effective manner."* The plan fails to provide any adequate explanation, the introduction is inadequate and the plan is overly reliant on referencing documents.

Response to C. Mechels Issue #2

Responses to these concerns are similar to the SWQB's response to General Issues 1& 2 above. SWQB believes the approach of creating an electronically linked and referenced document has provided the public and document users unprecedented access to volumes of information that

would be otherwise difficult or time consuming to obtain. For example, the SWQB's approach in Work Element 1 not only presents the reader access to the TMDL document but also allows the reader to review supporting documentation or "the paper trail" such as WQCC minutes for the meeting where the document was approved as well as USEPA's approval letter.

C. Mechels Issue #3

The Plan is cast as a dialogue between NMED and EPA and relies upon "rote compliance" … the plan excludes the public …needs to be recast and rewritten … no other state resorts to rote compliance.

Response to C. Mechels Issue # 3

The plan does not rely on rote compliance, the public has been heavily involved, formal and informal comments received from the public (e.g., LANL Sept 12, 2002) comments and the EPA (Michael Haire, USEPA Headquarters Office of Wetlands, Oceans and Watersheds, (personal communication with James Davis of SWQB) have indicated the proposed approach could in fact become a national model for other states to follow. The SWQB's electronic reference document approach also received national attention from the *Association of State and Interstate Water Pollution Control Administrators* (ASIWPCA) in their March 2002 newsletter called "*STATEments.*" The ASIWPCA newsletter recognized New Mexico's use of Websites to post TMDL documents and noted:

> *Building on the lessons learned, NMED Surface Water Quality Bureau recently prepared a draft update to its Water Quality Management Plan (WQMP), which takes full advantage of information on its Web sites. Under the proposed approach, the WQMP becomes an index to a wide variety of water quality management program documents (complete with electronic links), thus making it more user friendly. Program document include the Continuing Planning Process (CPP) Standards for Interstate and Intrastate Surface Waters, Ground & Surface Water Protection Regulations, and the Nonpoint Source Management Plan. ...* ***This is the type of technical exchange and program sharing being promoted by ASIWPCA and by America's Clean Water Foundation (ACWF)***. [Emphasis added.]

As previously discussed the Bureau's effort has been to recompile and organize many existing documents to make them accessible through one document. All components of the proposed recompilation have at one time or another gone through its own public review and participation. For example, each of the 44 TMDL documents included in Work Element 1 has gone through a significant public participation process ranging from public demonstrations on water quality collection prior, and public watershed meetings prior to collecting data and writing the TMDL; publicly noticed requests for public comment on the draft documents through the WQCC; and open deliberation and adoption of the documents by the WQCC at publicly noticed open meetings.

San Juan Water Commission (SJWC) Issues

San Juan Water Commission Issue #1

SJWC reiterates its Feb. 26, 2002 comment and concern regarding Work Element 8 and the WQCC's prior determination to utilize a statewide planning approach rather than a basin approach. The SJWC suggests an additional "strategy" for the Work Element to indicate that the state encourages the development of regional and basin-wide planning initiatives by regional water quality management agencies.

Response to San Juan Water Commission Issue #1

SWQB responded to this concern under the first set of public comment response under General Issue #4. SWQB's recommendation remains that this issue should be addressed in it own separate forum. SWQB believes there are technical problems with SJWC's suggestion to have regional authorities to develop regional water quality plans. Currently the WQCC is statutorily the "water pollution control agency for this state for purposes of the federal Clean Water Act" [§74-6-3.E NMSA] and the WQCC is charged with the responsibility to "adopt a comprehensive water quality management program" [74-6-4.B. NMSA]. However, SJWC's suggestion has some good elements. SWQB recognizes the need to work with local organizations and entities on these important issues. Regional and local involvement in water quality issues is a valuable activity. A new strategy for Work Element 8 has been added.

Los Alamos National Laboratory (LANL) Issues

Los Alamos National Laboratory Issue #1

With regard to Work Element 1, LANL reiterated the same concern addressed in the first set of comments under LANL Issue #6 in the previous response to comments. LANL added to their comment that negotiated grant commitments should be listed in this document or a link to the list provided and that the criteria that would determine a necessary TMDL or appropriate TMDL should be listed or incorporated.

Response to LANL Issue #1

SWQB does not agree grant commitments are within the scope of this document. Grant commitments are often renegotiated to accommodate rapidly changing concerns. With regard to criteria for determining TMDL needs this is already addressed in the CPP's "Process for Establishing and Assuring Implementation of Water Quality Standards."

Los Alamos National Laboratory Issue #2

With regard to Work Element 2, LANL reiterated the same concern addressed in the first set of comments under LANL Issue #9 in the previous response to comments. LANL added to their comment that the strategic elements should be reworded to indicate the State's roles if any.

Response to LANL Issue #2

SWQB refers to its previous response to comment and notes that the State's current role is clearly identified in the "Background" portion of the Work Element. The strategies are currently carefully worded to address what strategy the "permitting authority" should follow whether it is EPA as in the current situation or the state in the possibility that the State becomes the delegated NPDES permitting authority.

Los Alamos National Laboratory Issue #3

With regard to Work Element 4 LANL reiterated the same concern addressed in the first set of comments under LANL Issue # 13.

Response to LANL Issue #3

LANL's comments are noted.

Los Alamos National Laboratory Issue # 4

With regard to Work Element 6 LANL reiterated the same concern addressed in their first set of comments under LANL Issue # 16. LANL added a new suggestion that the section could include such a schedule or reference to where a schedule exists.

Response to LANL Issue # 4
The Background Section of Work Element 6 originally proposed in the December 20, 2001 draft was rewritten to provide clarification and additional examples in response to LANL's first set of comments. SWQB believes the revised background section answers the concern. Inclusion of schedules directly in the plan is problematic since they are often dependent on outside factors and therefore subject to changes. For example, while the so-called triennial review of water quality standards seems like it should be initiated every three calendar years, the requirement is that the date the three years is counted from is the date the last review was submitted to EPA. The triennial review initiated by the SWQB in 1997 was not submitted to EPA until late 2000 due to independent factors including prolonged public participation and WQCC deliberation, thus the next timely review would need to be initiated in 2003. However, one of the values of scheduling is public notification. SWQB has added an additional strategy to post a tentative schedule on the Internet as a means of public information. Examples of items that could be included in the schedule include (but would not be limited to) the triennial water quality standard reviews, biennial updates to the 305(b) report to Congress and the biennial update of the 303(d) list. Posting on the Internet would allow public access to the information.

Appendix 2– USEPA Review and Public Participation 2003 WQMP Update

Review Process

Public review and participation for the 2003 update to the WQMP was performed under the "Process for Updating and Maintaining the Statewide Water Quality Management Plan" section of the 1998 CPP.

Preliminary correspondence with the USEPA regarding WQMP update requirements and strategies began January 30, 2003, by letter outlining the approach to the update along with a copy of the draft proposed revisions.

Public review was initiated with a news release, electronic mailing to interested parties, U.S. Postal Service mailing to the comprehensive SWQB mailing list (which includes WQCC mailing list), a public notice issued and published on January 14, 2003 in the *Albuquerque Journal*, the *Santa Fe New Mexican*, the *Farmington Daily Times*, the *Las Cruces Sun News*, and by placing the proposed update on the published agenda of the January 2003 WQCC regularly scheduled open meeting (this meeting was subsequently cancelled). The draft revisions to the Introduction and Work Element 11 – Public Participation Program of the WQMP and public notice were also posted on the NMED's web page. A forty-five day public comment period was provided. During the 45-day comment period the SWQB held a public meeting in Santa Fe on February 17, 2003. Five people attended the public meeting (see sign-in sheet). Written comments were received from several citizens and organizations.

Following the close of the public comment period, the SWQB responded to comments received (see below) and incorporated appropriate changes into the draft document. At the April 2003 WQCC regularly scheduled open meeting the SWQB presented a summary of the public participation process associated with this WQMP update and requested approval of the draft revisions as amended to incorporate public comments. The WQCC tabled approval of the item to allow the public ample opportunity to review the draft document as amended to incorporate public comments. At the May 2003 WQCC regularly scheduled open meeting the WQCC adopted the proposed revisions to the Introduction and Work Element 11.

Response to Comments Received January 14 through February 28, 2003

The SWQB would like to express its appreciation to all parties who submitted comments on the Draft Introduction and Work Element 11 of the proposed revisions to the statewide Water Quality Management Plan (WQMP). All comments submitted are included in this document, as received, as a hyperlink.

This portion of the document is compiled in a manner to avoid paraphrasing of comments received to avoid any misrepresentation of the thoughts and ideas expressed in the various comments. The comments are included, word for word, as a hyperlink, and followed immediately by the SWQB's response, with reference to a particular comment expressed by

paragraph number or other identifier at the beginning of the response, followed by the SWQB's response. While this may require flipping back and forth from comments to response, as well as to the revised Introduction and Work Element 11, it is the intention of the SWQB to facilitate a more accurate interpretation and thus a more accurate response to the comments.

Response to Comments received from Citizens for Environmental Safeguards (CES)

Comments received from Citizens for Environmental Safeguards (CES) were numbered and lettered and will be addressed accordingly.

1. The document did not include page numbers, as it will be incorporated into a larger document following adoption. Page numbers were added to the draft document to aid users while reviewing the response to comments. This is a good suggestion and in the future the SWQB will number pages of draft documents in an effort to facilitate the commenting process.
2. Language was added to Work Element 11 under Strategy heading, "1. a" stating that guidelines on how public meetings and hearings are conducted are available through the various outlets stated in the strategy. While your comment suggests that these guidelines should be included an all agendas, this language was not added, as it would be cost prohibitive and redundant to include on every agenda. However, they are available upon request at any time, including at the event, should anyone request them. The WQCC currently has guidelines on WQCC public meeting and hearings, and the SWQB will develop public meeting guidelines for future public meetings (hearings are conducted in accordance with WQCC guidelines). Guidelines have not been developed in the past for SWQB public meetings, as the meetings were meant to be somewhat informal to promote open discussion, but based on this comment, it is recognized that there is a need to formalize the process.
3. The Public Participation Program has not been separated from Work Element 11 - it is Work Element 11. It is not being treated as a separate document. Both the Draft Introduction and the Draft Work Element 11 – Public Participation Program included in this document are proposed revisions to the current statewide WQMP. As they have not been formally adopted by the WQCC, the date of revision cannot be included. If these proposed revisions are accepted by the WQCC, then the revision date would reflect this, and the sections would then be incorporated into the WQMP. Various sections and Work Elements of the WQMP are not all updated simultaneously and the revised date allows the reader to know when the last update to that section or Work Element occurred. The SWQB has incorporated the public participation requirements into Work Element 11 which provides the reader with all of the requirements and associated references in one convenient location.
4. The Draft "Environmental Outreach and Public Participation Strategies and Public Meeting Protocol (Outreach Strategy)" document referenced in this comment is a separate document from the WQMP. The Outreach Strategy will go through a formal public participation process and associated public comment period. The document will be incorporated into the SWQB's library of protocols and implemented accordingly. It will likely be proposed as a reference within Work Element 11 of the WQMP during a

future update, but not incorporated fully. It is a lengthy document and in accordance with federal regulations (40 CFR 130.6(c)), a plan element may be "referenced as part of the WQMP if contained in separate documents."

5. If adopted and incorporated into the WQMP, there should be no need for lettering the table elements. In accordance with comment number 1, in the future the SWQB can number pages and additionally utilize a line-numbering format for draft documents put out for public comment. This should address your frustration of referencing the draft document and then formatting can easily be removed for final adoption.
    A. The use of the word "optional" has been clarified in the document to reflect how these public participation actions are implemented. The purpose of the table was to identify requirements that are specified in various regulations and thus identify minimum requirements. For those actions that are currently implemented by the SWQB, but not specified in any regulation, the word "optional" was used as a means of informing the public what actions will be taken for each element, while also identifying actual requirements.
    B. Public meetings currently are not specified as a required public participation action. See response to comment "A" regarding the use of the word "optional." The second part of your comment on Bullet 3 is unclear. It would be counter-productive to have a meeting on a document that does not yet exist. It has been the experience of the SWQB that if the public has a document to start with they are much more likely to participate and provide comments and suggestions. The purpose of a public comment period is to allow the opportunity for the public to participate in the process. Public notification is provided a minimum of 30 days before any public meetings occur, which should be sufficient and is in accordance with regulations. Public comment periods are generally 30-60 days long, which should be sufficient to provide input. Regarding Bullet 4 comment, the NMED Communications Director currently directs all press releases to all appropriate media throughout New Mexico, including both larger and smaller media outlets. However, it is at the discretion of the various media outlets, not the NMED, as to whether or not they choose to cover the press release.
    C. See response to comment number 2.
    D. As stated in the table, the revised version of the CPP document is currently being drafted and does not yet exist. It therefore could not be provided upon request. The current version of the CPP does not specify the public participation requirements for Antidegradation Implementation. The purpose of including it in the table was to inform the public that the information is forthcoming and to serve as a placeholder for the information.
    E. See response to comments "A" and "B" regarding the use of the word optional and public comment periods.
    F. See response to comments "A."
    G. See response to comments "A."
    H. See response to comments "A."
    I. See response to comments "A."

"Strategy" sections comments (no number): The use of the word "Strategy" as a section heading has nothing do with the referenced Outreach Strategy document. The heading is consistent with the formatting of the current adopted version of the WQMP, which this draft Work Element 11 would be incorporated into if adopted by the WQCC. The section outlines how the elements identified in previous sections of Work Element 11 will be implemented.

Availability of CPP comment (no number): Leftover copies of the 12/17/02 version of the WQMP were tested to for access to the CPP from the link within the WQMP. All leftover disks went directly to the current CPP when clicked. The CPP is located on the SWQB's website under the "Library" section under the "Water Quality Control Commission" heading (towards the bottom), and is also available on the WQCC's website at: http://www.nmenv.state.nm.us/oots/wqcc.htm. The SWQB continues to improve the organization of the numerous documents available on the website and hopes to institute a searchable index to aid users. Additionally, all documents are available from the SWQB upon request.

Response to Comments Received from Chris Mechels

Significant additions were made to the Water Quality Standards section of the Introduction, including an additional section on Implementation.

Response to Comments Received from San Juan Water Commission

(3rd Paragraph) Regarding local initiatives active participation in water quality planning: The policy of the NMED SWQB is to encourage participation in water quality planning activities at all levels. All information that is submitted through the public participation process is seriously considered. However, this does not guarantee agreement among all parties who participate. The public participation process is documented and any parties who submit information are informed of how their comments/information were considered, or not considered, and are provided with an explanation on how the outcome was affected by the public participation process. The SWQB recognizes that staff located in Santa Fe cannot presume to know details of a watershed that is visited periodically and thus local initiatives are considered an invaluable resource for supplemental information on the studies conducted by the SWQB.

(4th Paragraph) Regarding integration of 303(d) List and 305 (b) Report: The December 27, 2002 notice published by EPA in the federal register proposes to withdraw the "July 2000 final Total Maximum Daily Load (TMDL) rule", not the proposed "2002 TMDL rule" which is now being referred to as the "2002 Watershed rule." While the proposed "2002 Watershed rule" incorporates integration of the 303(d) List and the 305(b) Report (called an Integrated Report), the future of this rule remains uncertain to date. However, EPA issued guidance in November 2002 (2002 Integrated Water Quality Monitoring and Assessment Report Guidance) recommending that states submit an Integrated Report. New Mexico expects to submit such a report for the next reporting cycle (2004-2006) in accordance with the EPA guidance. The

language of the draft WQMP Introduction has been changed to clarify this issue and now simply references the guidance rather than the rule.

(5th Paragraph) Regarding adding a statement that NMED will seriously consider all public input: Language was added to the 2nd paragraph under the background heading specifying the purpose of Work Element 11 and an additional strategy element (#3) was added to inform the public of how their input was considered.

Response to Comments Received from Concerned Citizens for Nuclear Safety (CCNS)

(1st Paragraph under "A. Introduction" heading): Significant additions were made to the Water Quality Standards section of the Introduction, including an additional section on Implementation (also see comments from Chris Mechels).

(2nd Paragraph under "A. Introduction" heading): Language on the CPP was added to the Introduction under the "Purpose" heading.

(3rd Paragraph under "A. Introduction" heading): Language regarding the quasi-judicial role of the WQCC was added.

(4th Paragraph under "A. Introduction" heading): The WQCC website was added (hyperlinks will be added when the approved version is incorporated as final into the WQMP). Regarding the listing the five programs under the Groundwater Bureau: The purpose of this section, which is already quite lengthy, is to briefly describe the functions of the bureaus within the NMED. If all programs were listed for each bureau in addition to the descriptions of their functions, the section would become extremely lengthy, and in the opinion of the SWQB, would not benefit the user of the document.

(5th Paragraph under "A. Introduction" heading): Language referencing the SWQB's responsibility of maintaining the WQMP and the CPP was added.

(1st Paragraph under "B. Work Element 11" heading): Regarding why the Work Element is limited to federal Clean Water Act programs administered by the NMED: To clarify, the Work Element is limited to only SWQB programs (one bureau within the NMED) administered under the federal Clean Water Act. Language was added to include programs falling under the NM Water Quality Act as well, but still only those administered by the SWQB. The purpose of limiting this Work Element to programs only administered by the SWQB is that the SWQB is the constituent agency assigned to maintain the WQMP and is the primary implementer of the WQMP, but does not implement ALL program elements addressed in the WQMP. Therefore, the SWQB cannot define how other bureaus within the department administer a public participation program. It would be at the discretion of the WQCC to direct the other bureaus (constituent agencies for various components of the WQMP) to incorporate their public participation programs into Work Element 11. Finally, regarding the last sentence of the paragraph, a list of programs administered by the SWQB has been added to Work Element 11's Applicability statement.

Response to Comments Received from Los Alamos National Laboratory (LANL)

Note: Los Alamos comments were received by the SWQB on March 14, 2003 (letter was dated March 13, 2003), which was 14 days after the close of the comment period. The SWQB cannot guarantee incorporation of comments received after the close of a comment period. However, in this instance, and when possible, the SWQB will incorporate late comments as time allows.

(2nd Paragraph on attached comments on Introduction) Historical Perspective: Developing a graphic indicating the timeline of changes of the Clean Water Act and including New Mexico's developments in response is an excellent suggestion, however, limited turnaround time following the submission of these comments did not allow for the development of such a graphic. This suggestion could be considered in future updates to the WQMP. While a graphic would likely make the document clearer, the document does not lose informational content without such a graphic. Regarding the lack of clarity of New Mexico's amendments to the NM Water Quality Act, the timeline follows closely to that of the federal changes as the updates are made to be incompliance with federal law. Language has been added to clarify this point, stating that NM's amendments follow closely to that of federal amendments.

(3rd Paragraph on attached comments on Introduction) Institutional Roles and Responsibilities: Regarding changing the order of the sections within the Introduction, this was the only comment received with this suggestion. Since one party only expressed this concern, it will be left in the order it was originally proposed. Regarding the role of the different NMED bureau's roles in water quality management as described in the WQMP, descriptions of what each bureau does is provided in the Introduction, and specific bureau responsibilities as they relate to the WQMP are described within individual Work Elements of the WQMP. Regarding the presentation order of bureaus within NMED, the order is consistent with the NMED organizational chart, which has been added as a graphic to the introduction for clarity as per your suggestion (although the graphic is not as comprehensive to include all components of your suggestions, due to limited turnaround time on the proposed revisions). Additionally, language has been added to the SWQB section to clarify that the SWQB has primary responsibility for maintaining and implementing the WQMP. Regarding Field Operations Divisions responsibilities, language was added to incorporate your suggested changes.

(4th Paragraph on attached comments on Introduction) Water Quality Monitoring, Assessment, and Reporting: The SWQB did not broaden the section to incorporate your suggested changes, as the SWQB feels this information is encompassed in the entire WQMP document, as is the purpose of the document, and it would be redundant to include major components of the plan in the Introduction. Regarding incorporating the relationship of the WQMP and the CPP, additional language was added to the Purpose section of the Introduction (also see comments from CCNS).

(1st Paragraph on attached comments on Work Element 11) Regarding expanding information on how public input process works: The information provided in this Work Element 11 attempts to provide the user with an explanation of the public participation process in a general sense and

outlines the requirements for specific topics. While providing a graphic showing the progression of the public participation process for situations from beginning to end would benefit the reader, it would be difficult to provide one that applied in every instance. Providing a generalized graphic has the potential to mislead the user in specific instances and was therefore not incorporated as per your suggestion. However, getting the information to the public in this manner is an excellent suggestion and could be provided as needed to the public at specific instances. Language has been added to the work element to include providing this type of information to the public on a case-by-case basis. Language was also added to incorporate the suggestion of informing the public on how NMED responds to comments received and how comments and responses are communicated to other parties.